



# भारत का राजपत्र The Gazette of India

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No. 39]

NEW DELHI, SATURDAY, SEPTEMBER 23, 1972/ASVINA 1, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

## भाग II—खण्ड 3—उपखण्ड (ii)

### PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर)  
केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं

Statutory orders and notifications issued by the Ministries of the Government of India  
(other than the Ministry of Defence) and by Central Authorities (other than the  
Administration of Union Territories.)

#### MINISTRY OF LABOUR AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 11th September 1972

S.O. 2561.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the management of Royal Tisra Colliery of Messrs Royal Tisra Colliery Company, Post Office Jharia District Dhanbad, and their workmen, which was received by the Central Government on the 2nd September, 1972

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 28 of 1971

In the matter of an industrial dispute under S. 10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of Royal Tisra Colliery of Messrs Royal Tisra Colliery Company, Post office Jharia, District Dhanbad.

AND

Their workmen.

APPEARANCES:

On behalf of the employers.—Shri T. P. Choudhury, Advocate.

On behalf of the workmen.—Shri Prasanta Burman, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 29th August, 1972

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Royal Tisra Colliery of Messrs Royal Tisra Colliery Company, Post office Jharia, District Dhanbad and their workmen, by its order No. L-2012/11/71-LRII dated 6th February, 1971 referred to this Tribunal under S. 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

#### SCHEDULE

“Whether the action of the management of Royal Tisra Colliery of Messrs Royal Tisra Colliery Company, post office Jharia, District Dhanbad in stopping the following workmen from work

with effect from the 23rd February, 1970 is justified? If not, to what relief the workmen are entitled?

S. No.	Name of workmen	Designation
1	Bharat Singh	Trammer
2	Ratan Rajwar	-do-
3	Lalu Mahato	-do-
4	Shuku Mahato	-do-
5	Rambalak Paswan	Miner
6	Gopal Bauri	-do-
7	Radhu Bauri	-do-
8	Joti Bauri	-do-
9	Paras Bauri	-do-
10	Pana Bauri	-do-
11	Bideshi Bauri	-do-
12	Srikant Bauri	-do-
13	Rameshwar Bauri	-do-
14	Panchu Bauri	-do-
15	Duryodhan Bauri	Trammer
16	Ranjalam Bauri	-do-
17	Bagla Bauri	-do-
18	Kalipada Bauri	-do-
19	Chardu Bauri	-do-
20	Jugal Bauri	-do-
21	Paras Bauri	-do-
22	Mahandi Rajwar	-do-
23	Gajum Bauri	-do-
24	Panchu Das	C. Mazdoor
25	Harash Das	-do-
26	Sundar Das	-do-
27	Bhaktoo Gope	-do-
28	Kali Gope	-do-

2. Workmen as well as the employers filed their statement of demands.

3. The case of the workmen in brief is that the workmen employed in the colliery, inclusive of the affected workmen became members of Krantikary Koyala Mazdoor Sangh and, coming to know of it the employers stopped the affected workmen from work with effect from 23rd February, 1970 without prior notice and without assigning any reason and it was illegal and unjustified. It is also pointed out that as regards stoppage of work of the 28 affected workmen the union raised an industrial dispute before the Assistant Labour Commissioner (Central) Dhanbad on 13th March, 1970, that on 9th June, 1970 the employers agreed to reinstate ten workmen and that subsequently they refused to do so. The employers filed their statement stating that the working of the mine had to be closed down under the direction of the Joint Director of Mines Safety with effect from 23rd February 1970, that at the request of the miners it was agreed that till the management obtain clearance from the Department of Mines to reopen the mine the miners would work elsewhere and they would report for duty when the mine restarted working and that the trammers were given the work of reverse packing of the tram line to which they at first agreed but later refused to do the work. It is pleaded that by the time the working of the mine restarted on 23rd March, 1970 the union had already raised a dispute before the Assistant Labour Commissioner (C) Dhanbad and as such there was no question of reinstating them. According to the employers there was an agreement on 9th June, 1970 during the conciliation proceeding, according to which then workmen were to be taken back in the employment but none of them reported for duty and as such, the industrial dispute having been settled, it was not open to the workmen to raise the same dispute once again. It is mentioned that out of the 28 affected workmen, affected workmen at sl. no. 2 Ratan Rajwar, sl. no. 20, Jugal Bauri and sl. no. 19 Charaku Bauri were never in their employment and that none of the affected workman was a permanent workman in the colliery. The employers took a legal objection that no dispute as regards stoppage of work of the 28 affected workmen was raised with them at any time and as such, the Reference was incompetent. The employers also pleaded ignorance if

any of the affected workmen was a member of Krantikary Koyala Mazdoor Sangh. The workmen were represented by Shri Prasanta Burman, Advocate and the employers by Shri T. P. Choudhury Advocate. On admission by the employers, Exts. W.1 to W.3 for the workmen and on admission by the workmen, Exts. M1 and M2 for the employers were marked. On behalf of the workmen 5 witnesses were examined and Exts. W.4 to W.8 were marked. The employers examined a witness and marked Exts. M3 to M13. During the course of arguments on 6th May, 1972 an application was submitted on behalf of the employers for substitution of the affected workman, at sl. no. 16 for the affected workman at sl. no. 2 in their written statement. The workmen filed a rejoinder on 18th May, 1972 denying the allegation regarding the affected workman at sl. no. 16 and asserting that he was a workman of the colliery at the relevant time. Shri T. P. Choudhury, the learned Advocate for the employers made a statement that he has no more documents to file or witnesses to examine. On behalf of the workmen also no further witness or document was filed.

4. As per the order of Reference the 28 affected workmen of Royal Tisra colliery of the employers were stopped from working with effect from 23rd February, 1970 and the only question referred for adjudication is as regards the justification of the stoppage of work. It is also admitted by the employers that with effect from 23rd February, 1970 the workmen—trammers, miners etc. were stopped from work and the justification pleaded by them is that the working of the seam had to be stopped under the direction of the Joint Director of Mines Safety. It appears from the statement of the employers that as the top section face of 8 seam was full of water the employers adopted floor lifting method by blasting the stone with non-permissive and high explosive to which the Deputy Director-General of Mines Safety took exception. According to the employers they made a representation to the Joint Director of Mines Safety but the Joint Director of Mines Safety directed stoppage of work in 8 seam and as such the employers stopped working in the 8 seam with effect from 23rd February, 1970. The manager, MW.1 also deposed that inspite of his request, B. N. Singh, the Deputy Director General of Mines Safety stopped working of the 8 seam. The stoppage must have been under a written order and the employers also have produced some documents. Ext. M1 is a letter dated 13th January, 1970 from the Joint Director of Mines Safety to the employers directing the employers to stop the use of the explosive forthwith. Ext. M4 is a reply from the manager to the above letter stating that the manager of M/s. Oriental Explosive Company had agreed to issue the permitted explosive from 1st March 1970 and the management had arranged the stone dust around the explosive used because they were not getting water throughout the year in the mine and, as such the Joint Director should not stop the use of explosive in underground. To this letter the Deputy Director of Mines Safety sent a reply stating that as zero seam workings were water logged the manager should use that water for water spraying purpose. These are the only relevant letters filed by the employers. From these letters it emerges that the office of the Directorate General had objection to the employers using the high explosive and they never directed the employers to stop working of the seam. MW. 1 also concedes that Ext. M1 is not the letter stopping the working. Therefore there is no evidence that the employers were directed to stop working of the seam and make its workmen idle. There is no evidence that permitted explosive was not available or that the working could not continue without using non-permissive and high explosive. Thus, I find no justification for stopping of the working of the 8 seam and making the affected workmen idle without notice. That apart the 8 seam resumed working on 23rd March, 1970 and the employers did not permit the workmen to join duty on the ground that by then an industrial dispute was already raised. I do not see substance in the reason shown. The dispute was as regards stoppage of work of the affected workmen with effect from 23rd

February, 1970 and that dispute could continue without any adverse effect even if the workmen were allowed to resume duty from 23rd March 1970. There is no convincing and cogent evidence that the affected miners agreed to seek employment in other collieries from 23rd February, 1970 or that the affected trammers had agreed and then refused to do the work of reverse packing. I see no reason why the oral evidence of only MW. 1 should be preferred to the evidence of WW. 1 to WW. 4. The employer had pleaded that the affected workmen at sl. nos. 2, 10 and 19 were never in their employment and after the affected workman at sl. no. 2 was examined as WW. 2 and the workmen had closed their evidence the employers came forth with the statement that the affected workman at sl. no. 2 should be substituted by the affected workman at sl. no. 16. In other words, their objection was regarding the affected workmen at sl. nos. 16, 20 and 19 and not against the affected workman at sl. no. 2. The evidence of WW. 1 to WW. 4 is that all the 28 affected workmen were employees of the employers and no question was put to any of them in the cross-examination on this point. That apart, the failure report accompanying the order of reference as well as the file of the Assistant Labour Commissioner (C) Dhanbad does not show that the employers had taken this objection at any time. On behalf of the employers Form B registers are produced, but their genuineness is not beyond suspicion. The manager, MW. 1 has admitted that in the form B register, Ext. M12 there are some double entries against names of some workmen and these double entries are against the names of the affected workmen only. The witness MW. 1 tried to explain on his own accord by saying "In this register we have to write down the names at first of workmen coming on duty. Suppose they are not coming for one week we have to write their names in the same register again. So the register will be too much lengthy. We strike off the name only at the end of the year when they are not coming. So, the affected workmen were actually marked of their presence on the work. So there are double entries. So the period of gap marked in the register indicate the absence of the persons". Form B register is statutory and it does not permit of such double entries. It is significant to note that these double entries are found only in respect of the affected workmen. Thus, it cannot be accepted that the affected workmen at sl. nos. 16, 20 and 19 or at sl. no. 2 were not employees of the employers. For the same reasons it cannot be accepted that the affected workmen were temporary. If they were temporary, there is no explanation why their names should appear at all in the Form B register.

5. The main defence of the employers is that the industrial dispute under reference was settled on 9th June, 1970 and as such, the union was not competent to raise the same dispute once again. The affected workmen were stopped from working with effect from 23rd February, 1970. The dispute regarding this stoppage appears to have been raised by the Secretary, Krantikary Koyala Mazdoor Sangh before the Assistant Labour Commissioner (C) Dhanbad-II on 13th March, 1970. On the request of the workmen file No. D-3/149/1(63)-70 was called from the Assistant Labour Commissioner (C) Dhanbad-II. It is seen from the note file that on the complaint of the union dated 13th March, 1970 the proceedings were started on 8th April, 1970. On 4th May, 1970 C.A. Shah, the manager of the colliery, who is also examined in the present case as MW. 1, made a statement before the Assistant Labour Commissioner (C) Dhanbad-II that he would consider the case of the miners and he would take them in job from the morning of 11th May, 1970. About the trammers he stated that the tramping job had been given on contract. However, he agreed to consider the case of the trammers. Again on 9th June, 1970 the manager stated that he already agreed and also given in writing to the union that he would give employment to eight miners and two trammers by 1st of June, 1970, that accordingly two miners (viz. Ram Balang and one other) two trammers viz. Lalu and Suku, turned up on the said date and were offered jobs but they did

not work and left the colliery. The order sheet further shows that after some discussions the manager again agreed to offer to the workmen jobs from 12th June, 1970. The order sheet shows that the union was advised to inform the workmen to report on the said date before the manager and the union agreed to do so. On these proceedings the employers contend that the dispute as regards stoppage of work of the 28 affected workmen was settled by an agreement on 9th June, 1970. But from these order sheets of 4th May, 1970 and 9th June, 1970 I cannot find any legal agreement or settlement which could be binding on the parties. On 4th May, 1970 the manager agreed to take back into service all the miners from 11th May, 1970 and also to consider the case of trammers. On 9th June, 1970 he stated that he had agreed to give jobs to eight miners and two trammers. This is against what he had stated on 4th May, 1970. The writing said to have been given by him to the union is neither produced nor summoned. There is no mention as to how and by whom the eight miners and two trammers should be chosen from among the workmen. That apart, if it is a settlement it must be in accordance with S. 18 of the Industrial Disputes Act, 1947, read with Rule 58 of the Industrial Disputes (Central) Rules, 1957. According to the Rule a settlement arrived at in the course of conciliation proceeding or otherwise should be in Form H and conciliation Officer should send a report thereof to the Central Government together with a copy of the memorandum of settlement signed by the parties to the dispute. In the present case no memorandum of settlement was drawn, nor was it signed by the parties nor the conciliation officer sent a report to the Central Government together with a copy of the memorandum of settlement. Non-compliance of the rule in respect of a settlement arrived at during conciliation proceedings renders the settlement illegal, as pointed out by the Supreme Court in workmen of M/s. Delhi Cloth & General Mills v. Management of M/s. Delhi Cloth & General Mills Ltd. (AIR 1970 S.C. 1851). Thus, I find no substance in the plea taken by the employers. Consequently, the question whether the workmen reported to duty or not in accordance with the settlement is immaterial.

6. The employers have taken a legal objection that in respect of the stoppage of work of the 28 affected workmen no dispute was raised with the employers by the workmen or their union before it was raised with the Assistant Labour Commissioner Dhanbad-II and as such, the Reference was incompetent. The failure report shows that the dispute was raised with the Assistant Labour Commissioner (C) Dhanbad-II by the Secretary, Krantikary Koyala Mazdoor Sangh through their representation dated 1st October, 1970 and the dispute is the same as it was contended as settled on 9th June, 1970. In para 17 of their statement the employers have admitted that the dispute was raised by the union through the letter dated 13th March, 1970 and a copy of the same was endorsed to the employers by the Assistant Labour Commissioner (C). It was long before 1st October, 1970. Apart from this there is the evidence of WW. 5, the Secretary of Krantikary Koyala Mazdoor Sangh proving the letter, Ext. W.4 and its certificate of posting Ext. W.5. Ext. W.4 is a letter dated 24th February, 1970 addressed by WW.5 to the manager of the colliery regarding stoppage of work of the 28 affected workmen with effect from 23rd February 1970 describing it as illegal and demanding reinstatement of the affected workmen. The certificate of posting, Ext. W.5 also shows that the letter was posted on 24th February, 1970. The presumption is that it was received by the manager of the colliery, because there is no satisfactory rebuttal evidence except a bald statement of MW. 1 that he did not receive it. The Patna High Court in CWJC 1513 of 1969 dated 1st September, 1971, Managing Contractor v. the Presiding Officer & Others has pointed out that it is not necessary that the demand should be made by the workmen or union directly to the management and the demand on the management through the

Assistant Labour Commissioner was sufficient. In this view I find no force in the objection raised by the employers.

7. The employers have pleaded their ignorance that any of the affected workmen was a member of Krantikari Royala Mazdoor Sangh which has sponsored the dispute. WW.5 as the Secretary of the Sangh has deposed that all the 28 affected workmen were members of his union. He has also produced the membership register along with the extract, Ext. W. 8. He has also sent the letters, Exts. W. 1, W. 2, W. 4 and W. 6 in respect of the dispute of the 28 affected workmen. Against these materials there is no evidence barring that of the manager, MW. 1 expressing his ignorance. This objection of the employers also is devoid of any substance.

8. I, therefore, find that the action of the management of Royal Tisra Colliery of Messrs Royal Tisra Colliery Company, Post office Jharia, District Dhanbad in stopping the 28 workmen mentioned in the Schedule of the Order of Reference from work with effect from the 23rd February, 1970 was not justified and, consequently, all the 28 affected workmen should be deemed to be in service in their respective jobs without any break from the 23rd February, 1970 and they are entitled to their wages and other emoluments and benefits from the above date till the date of their actual reinstatement. The Award is made accordingly and submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer.

[No. L/2012/11/71-LRIL.]

**S.O. 2562.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Superintendent Personnel, Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen, which was received by the Central Government on the 5th September, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

REFERENCE No. 18 OF 1968

(REMANDED BY THE HIGH COURT AT  
CALCUTTA)

**PARTIES:**

Employers in relation to the Perbelia Colliery of  
Messrs Bengal Coal Company Limited.

AND

Their Workmen

**PRESENT:**

Sri S. N. Bagchi.—Presiding Officer.

**APPEARANCES:**

On behalf of Employers—Sri B. N. Lala, Personnel  
Officer.

On behalf of Workmen—Sri L. P. Tripathi, Secretary,  
Colliery Mazdoor Union, Perbelia Colliery  
Branch.

STATE: West Bengal.

INDUSTRY: Coal Mine.

**AWARD**

By Order No. 6/17/68-LRIL, dated 16th April, 1968, the Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) referred an industrial dispute existing between the employers in relation to Perbelia Colliery of Messrs Bengal Coal Company Limited and their workmen represented by the Colliery Mazdoor Union.

Perbelia Colliery Branch, for adjudication, to this Tribunal, namely:

“Whether the dismissals of Shri Ajodhya Thakur, Fan Khalasi and Shri Dhaneswar Nunia, Wagon Shunter by the management of Perbelia Colliery with effect from the 12th April, 1967 and 22nd April, 1967 respectively, were justified? If not, to what relief are the workmen entitled?”

2. This matter was adjudicated upon by this Tribunal and an award was passed and sent to the Ministry on 23rd October, 1968. The employers went in a writ petition against the said award to the High Court at Calcutta. The matter has come back on remand for rehearing on the evidence on record as directed by His Lordship Mr. Justice A. K. Sinha of the Calcutta High Court in Constitutional Writ jurisdiction.

3. To-day is the date fixed for settling a date of hearing but the parties have come to a compromise over the dispute in question. There is, therefore, no use of fixing any further date for hearing. The parties have filed a memorandum of compromise. I have heard both the parties and perused the memorandum of compromise. I consider the compromise to be just, suitable and beneficial to the interest of the workmen. The Secretary of the union submits that the workmen concerned have been apprised of the terms of the compromise and they have no objection to those being recorded. The terms of the compromise are, therefore, recorded and an award in terms thereof be rendered making the compromise petition a part of the award.

This is my award.

Dated,  
August 31, 1972.

(Sd.) S. N. BAGCHI,  
Presiding Officer.

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL;  
CALCUTTA

REFERENCE No. 18 OF 1968.

**PARTIES:**

Employers in relation to Perbelia Colliery of M/s.  
Bengal Coal Company Limited;

AND

Their workmen

**Joint Petition of Compromise:**

The parties aforesaid respectfully beg to submit as under:

1. The above matter was disposed of by this Tribunal by its award dated 23rd October, 1968, published in Gazette of India Part II Section 3(ii) dated 16th November 1968 at PP. 5288 to 5292.

2. The employers thereafter had approached the Hon'ble Calcutta High Court by their writ petition against the said award.

3. The Hon'ble High Court has been pleased to send back the matter to the Tribunal for disposal according to law.

4. The Tribunal has not fixed any date for the fresh hearing of the matter so far.

5. The parties, however, have in the meanwhile, come to an amicable settlement of the matter to their mutual satisfaction on terms hereinafter stated:

(a) The employers, in supersession of their order of dismissal in respect of Shri Ajodhya Thakur, Fan Khalasi, one of the two concerned workmen, shall re-instate him in his former job at the Perbelia Colliery without any wages for the period between the date of his dismissal

and reinstatement under this settlement. The workman shall report for work to the Manager of the colliery within a week from the date on which the Tribunal accepts this settlement.

- (b) The said intervening period between dismissal and reinstatement of Shri Ajoyhya Bhakur, as mentioned in para (a) above shall count towards continuity of service and shall be treated as a period of leave without pay or wages or any other benefit.
- (c) The parties further agree that the termination of the service of Shri Dhaneswar Nunia, Wagon Shunter the other concerned workmen, shall stand as from 22nd April, 1967 on which he was dismissed by the employers.
- (d) The employers, however, shall pay to the said Shri Dhaneswar Nunia, the sum of Rs. 863.57 (Rupees eight hundred sixty three and paise fiftyseven only) which is equivalent to the amount of retrenchment compensation and one month's wages which he would have been entitled to claim if he had been retrenched from service on the date of his dismissal. The said payment shall be made to the workman at the colliery office within a week from the date on which the Tribunal records this settlement, unless the workman or the union on his behalf, proposes in writing, any alternative mode of payment.
- (e) The union hereinconcerned or the two concerned workmen have no further claim against the management.
- (f) It is further agreed that the dispute between the parties has been hereby fully and finally settled in full and final settlement of all the claims of the workmen against the employers and that no further dispute in terms of the present reference subsists between the parties any longer.
- (g) Parties shall bear their respective costs of these proceedings.
- (h) It is further agreed that a joint prayer be made by the parties to the Tribunal to accept the compromise and to give its award in terms thereof.

(6) In the circumstances, the parties pray that the Tribunal may be pleased to take this settlement on record and to give its award in terms thereof.

(Sd.) Illegible,  
For the Workmen: For the Employers:  
Dated, 8th August, 1972 Dated, 8th August, 1972  
Verification

I. L. P. Tripathi, son of late Kalpanath Pati Tripathi, Secretary, Colliery Mazdoor Union, Parbelia Colliery Branch, P.O. Neturia, Dist. Purulia West Bengal and I. Biswanath Lala son of Late Hare Krishna Lala, Personnel Officer, Bengal Coal Co. Ltd., P.O. Disergarh, Dist. Burdwan jointly declare that the statement of facts narrated above is true to our knowledge derived from the relevant records and informations believed to be true and the rest are our submissions to the Tribunal and that we have signed the above petition of settlement on behalf of the parties as their respective authorised representatives. We have signed this verification at Sanctoria P.O. Disergarh, Dist. Burdwan on 8th August, 1972.

(Sd.) L. P. TRIPATHI,  
Secretary,  
Colliery Mazdoor Union,  
Parbelia Colliery Branch  
P.O. Neturia, Dt. Purulia.

(Sd.) B. N. LALA,  
Personnel Officer,  
Bengal Coal Company Ltd.  
P.O. Disergarh, Dist. Burdwan  
[No. 6/17/68-LRII.]

**S.O. 2563.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Gondudih Colliery of Messrs. Central Alkusa Colliery Company, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 1st September, 1972.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 3, DHANBAD

REFERENCE No. 84 OF 1969.

## PARTIES :

Employers in relation to the management of Gondudih Colliery of Messrs. Central Alkusa Colliery Company, Post Office Kusunda, Dist. Dhanbad.

Vs.

Their Workmen—Represented by Central Alkusa (Gondudih) Colliery Workers' Union Chhata-tand Bazar, P.O. Kusunda, District Dhanbad.

## APPEARANCES:

For Employers—Name on behalf of outgoing Employers.

Sri J. N. P. Sahi, Labour and Law Adviser, Bharat Coking Coal Limited, added as a party, vide Order No. 15 dated 23rd March, 1972.

For Workmen—Sri Anant Sharma, General Secretary, Central Alkusa (Gondudih) Colliery Workers' Union.

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, the 24th August, 1972.

## AWARD

The present reference to this Tribunal arises out of order No. 2/25/69-LRII dated the 7th November, 1969 of the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in relation to an industrial dispute between the parties mentioned above with respect to matters specified in the Schedule of reference which is extracted below:

## SCHEDULE

"Whether the action of the management of Gondudih Colliery of Messrs. Central Alkusa Colliery Company, Post Office Kusunda, Dist. Dhanbad, in rendering idle Shri Achyutanand Mishra, Store-Keeper-Magazine incharge, with effect from 2nd May, 1968 was justified? If not, what relief is the Workman entitled?"

2. The parties to the reference filed their respective written statements. In the meantime the colliery in question vested in the Central Government and Bharat Coking Coal Limited, a Government Company, was appointed Custodian of the Colliery as per the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971. Therefore on the petition of the workmen the said Company was added as a party to the reference. Bharat Coking Coal Limited has also filed a separate written statement.

3. The dispute in the meantime was settled amicably out of Court by Bharat Coking Coal Limited and the workmen and filed a memorandum of settlement on the date of hearing of the reference with a prayer to make award in terms thereof. The representatives of the said parties verified the compromise petition before the Tribunal. The Tribunal ordered for hearing against the out-going employers under rule 22 of the Industrial Disputes (Central) Rules.

4. I have gone through the said memorandum of settlement and considered the same in the light of the

reference and the cases of the parties and I find that the terms of settlement are quite fair, reasonable and beneficial to all the parties. I see no reason why an award shall not be made in terms and conditions laid down in the memorandum of settlement and I make award accordingly. The memorandum of settlement shall form part of the award and be marked as Annexure 'A' thereof.

5. Let the award be submitted to the Central Government under Section 15 of Industrial Disputes Act, 1947.

(Sd.) B. S. TRIPATHI,  
Presiding Officer.

#### ANNEXURE 'A'

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 3) AT DHANBAD

In the matter of:—

REFERENCE NO. 84 OF 1969

#### PARTIES:

Employers in relation to Gondudih Colliery of  
M/s. Central Alkusa Colliery Company.

AND

Their Workmen

#### Memorandum of Settlement:

All the parties to the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:—

(1) That Sri Achyutanand Mishra (Store-Keeper-Magazine Incharge) the workman concerned in the present Reference shall be re-instated by the management of Gondudih Colliery of Messrs. Central Alkusa Colliery Company on and from the 1st June, 1972 without any back wages and he will be placed in Clerical Grade-II (under Recommendations of the Central Wage Board (Coal Mining Industry) with starting basic salary of Rs. 205 (Rupees two hundred five only) per month with effect from the said date (1st June, 1972).

(2) That the period intervening from the date of stoppage of work (rendering him idle) (which gave rise to the present Reference) till the date of resumption of duty shall, for the purpose of continuity of services, be treated as leave without pay, but the workman concerned will be eligible to proportionate leave or quarterly bonus provided he puts in proportionate qualifying attendance during the remaining period of current year or current quarter, as the case may be.

(3) The workman concerned shall be paid a sum of Rs. 250 (Rupees two hundred fifty) by the said management as an *ex-gratia* amount within a fortnight from the date of his resumption of duty.

(4) In the event of the failure of the concerned workman to report for work within a fortnight from 1-6-72 the concerned workman shall have no right for re-employment and/or payment of the *Ex-gratia* amount as mentioned above under this agreement.

(5) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

(6) The parties shall bear their own cost of proceedings.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms thereof.

For the Employers:  
(Sd.) Illegible,

Manager  
Gondudih Colliery.

For Bharat Coking Coal Ltd.

J. N. P. SAHJ,

Labour and Law Adviser,  
Bharat Coking Coal Limited.  
Dated the 1st June, 1972.

For the Workmen:

ANANT SHARMA.

General Secretary,

Central Alkusa (Gondudih).

Colliery Workers' Union.

ACHYUTANAND MISHRA,

(Workman concerned).

B. S. TRIPATHI,

Presiding Officer,

[No. 2/25/69-LRII.]

S.O. 2564.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Madhuband Colliery of Messrs. Oriental Coal Company Limited, Post Office Nudkhurkee, District Dhanbad and their workmen, which was received by the Central Government on the 1st September, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) DHANBAD.

PRESENT

Shri Nandagiri Venkata Rao—Presiding Officer.

REFERENCE NO. 12 OF 1971

In the matter of an industrial dispute under S. 10 (1)  
(d) of the Industrial Disputes Act, 1947.

#### PARTIES:

Employers in relation to the management of  
Madhuband Colliery of Messrs Oriental Coal  
Company Limited, Post Office Nudkhurkee,  
District Dhanbad.

AND

Their workmen.

#### APPEARANCES:

On behalf of the employers in relation to the  
management of Madhuband Colliery of Messrs.  
Oriental Coal Company Ltd., Post Office  
Nudkhurkee, Dist. Dhanbad—Shri S.S. Kapur,  
Advocate.

On behalf of the Bharat Coking Coal Ltd.—Shri  
S.S. Mukherjee, Advocate.

On behalf of the workmen—Shri J.D. Lall,  
Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 28th August, 1972

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post office Nudkhurkee, District Dhanbad and their workmen, by its order No. 2/129/70-LRII dated 19th December,

1970 referred to this Tribunal under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

#### SCHEDULE

"Whether the action of the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post office Nudkhurkee, District Dhanbad, in stopping Shri Md. Ismail, Coal Cutting Machine Driver from work with effect from the 7th September, 1969 is justified? If not, to what relief he is entitled?"

2. On 27th July 1972 Shri J.D. Lall, Advocate representing the workmen, Shri S.S. Kapur, Advocate representing the employers and Shri S. S. Mukherjee, Advocate representing the Bharat Coking Coal Ltd, filed a compromise memo and verified the contents as correct. Having gone through the compromise memo I find its terms as favourable to the workmen in general and the affected workman in particular. The compromise is, therefore, accepted and the award is made in terms of the compromise. The compromise memo is annexed herewith and made part of the award. The award is submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd) N. VENKATA RAO

Presiding Officer,

Central Govt. Industrial Tribunal  
(No. 2) Dhanbad,

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
No. II, DHANBAD.

In the matter of:

REFERENCE No. 12 OF 1971

#### PARTIES :

Employers in relation to Madhuband Colliery of  
M/s. Oriental Coal Co. Ltd.

AND

Their Workmen.

#### Memorandums of Settlement:

All the Parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:—

1. That Shri Md. Ismail, C.C.M. Driver, the workman concerned in the present Reference does not like to be re-employed in Madhuband Colliery and prefers some cash payment only.

2. That Shri Md. Ismail will be paid a sum of Rs. 400/- (Rupees Four Hundred only) as cost of proceedings.

3. The above terms finally resolve the dispute between the Parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

It is, therefore, prayed that Hon'ble Tribunal may be pleased to accept this settlement and to give its Award in terms thereof.

For the Employers.

(Sd.) Illegible,  
Manager,

Madhuband Colliery.

for Bharat Coking Coal Ltd.

For the Workman.

(Sd.) J. D. LALL,

Vice-President,

Bihar Colliery Kamgar Union.

(Sd.) J. N. P. SAHJ,

Labour & Law Adviser,

Bharat Coking Coal Limited.

Dated: 25th July, 1972.

SR :

[No. 2/129/70-LRII.]

S.O. 2565.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad, in the industrial dispute between the employers in relation to the management of East Bhuggatdih Colliery of Messrs. The East Bhuggatdih Colliery Company Private Limited Post Office Jharia, District Dhanbad, and their workmen, which was received by the Central Government on the 5th September, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD.

In the matter of a reference under section 10(1) (d) of the Industrial Disputes Act, 1947.

Reference No. 86 of 1971

#### PARTIES:

Employers in relation to the management of East Bhuggatdih Colliery of Messrs East Bhuggatdih Colliery Company Private Limited, P. O. Jharia, District Dhanbad.

AND

Their Workmen.

#### PRESENT:

Shri A. C. Sen, Presiding Officer.

#### APPEARANCES:

For the Employers—Shri S. S. Mukherjee, Advocate.

For the Bharat Coking Coal Ltd.—Shri J. N. P. Sahi, Labour and Law Adviser.

For the Workman—Shri S. P. Singh, Gl. Secretary, Khan Mazdoor Congress.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 28th August, 1972

#### AWARD

The present reference arises out of Order No. L/2012/191/71-LRII dated New Delhi, the 15th December, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:

"Whether the action of the management of East Bhuggatdih Colliery of Messrs East Bhuggatdih Colliery Company Private Limited,



Post Office Jharia, District Dhanbad, in dismissing Shri Anant Lal, Munshi with effect from the 23rd August, 1971, is justified? If not, to what relief is the workman entitled?"

2. The written statement submitted by the outgoing management gives the details regarding the dismissal of the concerned workman. A summary of these details are given below. On 11th July, 1971 the Assistant Manager asked Sri Anant Lal, the concerned workman to give an account regarding the loading of 25 tubs by 19 miners but he failed to give a correct account thereof. On a perusal of the raising report book maintained by him, that is to say, Sri Anant Lal, it was found that the names of the miners were not mentioned against the twenty-five tubs. In fact, the names of the miners were not entered at all. When the concerned workman was asked to hand over the Munshi's raising report book he refused to hand over the same. A charge sheet dated 14th July, 1971 accusing him of insubordination and neglect of duty was issued to him and he submitted his reply denying the charges. As the reply was found to be unsatisfactory a departmental enquiry took place in his presence. The Enquiry Officer found him guilty and he was dismissed on the findings of the Enquiry Officer.

3. According to the management, the departmental enquiry was held in the presence of the concerned workman, who was given full opportunity to cross-examine the management's witnesses and adduce evidence in his defence. The Enquiry was conducted, says the management, according to the principles of natural justice.

4. It has been stated in paragraph 12 of the outgoing management's written statement that during the departmental enquiry on 23rd July, 1971 when the Enquiry Officer asked the concerned workman if he could produce the pocket note book he said that it was not readily available then and that he would submit it on the following day if he considered it advisable. The said paragraph adds that on the following day he did not submit the same, that he took time till 26th June, 1971 when also he did not submit the pocket note book, that thereupon a letter dated 26th July, 1971 was issued to the concerned workman on the basis of which a further enquiry was held on 30th July, 1971, and that during that enquiry he submitted the pocket note book which was found to have been altered.

5. The written statement of the union was received long before that of the management. The validity of the domestic enquiry has been challenged on two grounds: (1) that it was not impartial; and (2) that the Enquiry Officer was influenced by the officials. It has also been alleged in paragraph 9 that the present dispute is the outcome of the trade union activities of the concerned workman. The workmen have not submitted any rejoinder denying the allegations in the management's written statement filed after their written statement.

6. The Bharat Coking Coal Ltd. also submitted a written statement adopting the written statement filed by the outgoing management without prejudice to its contention that it was in no way liable or responsible for any act of the outgoing management prior to the date of the taking over under the provisions of the Coking Coal Mines (Emergency Provisions) Ordinance, 1971, replaced by the Corresponding Act.

7. A notice dated 14th July, 1971 to show cause why disciplinary action should not be taken was issued to the concerned workman in these terms: "It has been

brought to the notice of the undersigned that when on 11th July, 1971 the Assistant Manager Shri K. N. Jha, asked you to give an account re: the loading of 25 tubs by 19 miners, you failed to give a correct account thereof on perusal of the Raising report book maintained by you, it was found that the 25 tubs were not mentioned against the names of the miners. In fact the names of the miners also were not entered. Further when directed to handover your Munshi Raising Report Book, you refused to handover the same.

You are to show cause as to why disciplinary action be not taken against you for insubordination and failure to maintain the records as per direction which amounts to call (sic) negligence.

Your reply should reach the undersigned within 48 hours of the receipt of this show cause."

8. The charge against the concerned workman was insubordination and failure to maintain the records as per direction which amounted to call (?) negligence. Before I enter into the merits of the case I should like to dispose of a preliminary objection raised by Sri Singh appearing on behalf of the union. The notice to show cause mentions 11th July, 1971 as the date of the incident. It is not disputed that the incident took place on 10th July, 1971. Sri Singh submits that the incident of 11th July, 1971 being the basis of the charge, the charge is baseless as no such incident took place on 11th July, 1971. The submission is too naive to deserve serious consideration. The date 11th July, 1971 instead of 10th July, 1971 was obviously inserted in the notice to show cause through inadvertence. The concerned workman had no difficulty in identifying the incident, because he himself pointed out the mistake in date in his reply.

9. On merits, the first thing to be considered is whether the concerned workman refused to hand over the Munshi Raising Report Book to the Assistant Manager. The charge sheeted workman himself told to the Enquiry Officer that the Pocket Note Book is also called a Munshi Raising Report. In reply to the query made by the Enquiry Officer why the Assistant Manager became wild with him, he replied as follows: "Re: Pocket Note Book. He wanted to take away the book from me forcibly which I did not allow and on that he got angry with me." He in substance admits that he did not allow the Assistant Manager to take away the Pocket Note Book from him. It is difficult to believe that the Assistant Manager wanted to take away the Pocket Note Book forcibly. When he could direct the workman concerned to hand over the Note Book, why should he use force to take it from the concerned workman?

10. Again the witness No. 2 for the management in the domestic enquiry has stated that the concerned workman refused to hand over the Pocket Note Book to the Assistant Manager, who wanted to see his Pocket Note Book. He was not cross-examined by the charge-sheeted workman. Hence his deposition on this point remains unchallenged. The version of the Assistant Manager himself as witness No. 1 for the management in the domestic enquiry is as follows: "I wanted his Pocket Note Book which he gave to me. From the book I find a note that 25 loads received but line-wise break up was not there. When I asked him again to tell me which tubs were received in which line, he could not answer. He also took away his Note Book from me. When I wanted his Note Book for further examination he refused to give it to me and left the attendance cabin and went away." He was not cross-examined on this point. So the evidence on record clearly shows that he refused to hand over the Pocket Note



Book and for the matter of that the Munshi Raising Report Book as alleged in the charge sheet.

11. The next question for determination is whether there was failure on the part of the charge-sheeted workman to maintain the records as per direction. He admitted in his reply to the question put to him by the Enquiry Officer that in the Pocket Note Book, also called Munshi Raising Report, he writes the names of miners and loaders. He in his examination in chief mentioned the number of tubs he received from loaders or pick miners of the second shift. He said "I got 6 tubs in 16 No. level under the water, 2 tubs inside line of 16 No. level, 14 tubs at 17th level East, one tub at the main pit, 2 at 18th level West. The following question was put to him by the Enquiry Officer: "You stated that particular No. of tubs received at a particular line. Where from you said-from record or from memory. He replied as follows: "From my memory, which is also mentioned in the Pocket Book". So he admitted that he was required enter in his Pocket Book the details of the tubs received by him from the loaders or pick miners. But the Assistant Manager in his examination-in-chief stated that in the Pocket Note Book there was no linewise break up; there was only a noting that 25 loads were received. The charge sheeted workman put the following question in his cross-examination: "Why did you not ask the overman or the mining Sirdar about the tubs? Why did you want to know from me?" The Assistant Manager replied as follows: "Because it is mainly your duty to explain when asked for as you maintain. How do you know whether I asked the overman and the mining sirdar or not?" No further question was put by the charge-sheeted workman. Hence there cannot be any manner of doubt that it was the duty of the charge-sheeted workman to explain the position from his Pocket Note Book by giving the line-wise break up of the tubs received.

12. The subsequent conduct of the charge-sheeted workman in course of the enquiry proceedings is very significant. The enquiry came to an end, so far as examination of witnesses was concerned on 23rd July, 1971 when the charge-sheeted workman said that he had no witnesses. The Enquiry Officer passed the following order on 23rd July, 1971: "The enquiry came to an end as the workman has said he had no witnesses. He was told that I would wait for his Pocket Note Book upto Saturday the 24th July, 1971 in the evening upto 6 P.M. If he does not give it by then it will be concluded that he would not like to give it and I would proceed further in the matter". On 24th July, 1971 the charge-sheeted workman did not submit the Pocket Note Book. The Manager of the colliery sent a word saying that Sri Anant Lall (the workman concerned) would produce the book on Monday i.e. 26th July, 1971 at 11 A.M. On Monday the 26th July, 1971 the charge-sheeted workman did not submit the Pocket Note Book. The Enquiry Officer waited upto 12 Noon. He however requested the Management to give one more opportunity in writing.

13. The enquiry was resumed at 3 P.M. on 30th July, 1971 in the presence of the charge-sheeted workman, who admitted the receipt of notice of enquiry dated 26th July, 1971. Though the charge-sheeted workman told on 23rd July, 1971 that he had no witnesses, he produced one witness on 30th July, 1971 and he was allowed to examine that witness. He repeated what had earlier been said by the charge-sheeted workman in his deposition on 23rd July, 1971. It is obvious that this witness No. 1 for the charge-sheeted workman was tutored.

14. The charge-sheeted workman submitted his Pocket Note Book under reference on 30th July,

1971. The Assistant Manager was summoned by the Enquiry Officer to verify whether it was the correct Pocket Note Book. The Assistant Manager said that the Book was the correct one but that the entries relating to certain items pointed out by him had been made by the workman at a later stage, because they were not there on 10th July, 1971 when the Book was inspected. For the proper appreciation of the Assistant Manager's evidence on this point I am quoting the relevant portion from the order sheet of the Enquiry Officer:

"16-2+6	5
17-14	27
D-1	8
18-2	
25	37

Sri Jha has further said that in the first line in place of 5 37 was originally entered. He erased 37 and wrote 5 instead..... Similarly he has erased the other entries and made new entries now. The only entries made and remained unaltered are dated 9th July, 1971. Loads, supply, damage, total. In the original entry he mentioned under the column loads 25, under supply column 37, under damage column 1, Total 24. Mr. Jha says that with a view to make alterations he delayed the submission of the book as the entries cooked up in Books entry is not made genuinely". The only question that the charge-sheeted workman asked was whether the Assistant Manager saw him altering the entries in the Book. The Assistant Manager replied as follows: "I did not see you while you were altering. But from the entries any body can say that the entries are altered. The day of inspection the entries are not there".

15. What has been stated in paragraphs 12 to 14 clearly shows that the Pocket Note Book was not properly maintained and that he made a belated attempt to supply the omissions. There is no manner of doubt that he tampered with his Pocket Note Book because the relevant entries were not originally made as per departmental direction. Even the altered Pocket Note Book does not contain the names of the miners who loaded those 25 tubs. The charge sheeted workman in his reply to the chargesheet had stated that as the loaded tubs were of the different shift it was not possible for him to mention the names of the miners. Sri S. P. Singh, General Secretary of the Khan Mazdoor Congress, in his letter dated 17th September 1971 addressed to the Assistant Labour Commissioner (Central), Dhanbad II stated as follows: "That the aggrieved workman has already cleared the whole story in his reply dated 16th July 1971. His shift was IIrd and the loaded tubs lying there were of the IInd shift. When the Assistant Manager enquired of the aggrieved workman, regarding the loaded tubs he simply stated the truth and said only the Munshi of the second shift can say who loaded these tubs". The Manager of the colliery sent a reply by a letter dated 20th September 1971 addressed to the Assistant Labour Commissioner (C), Dhanbad-II. In para 4 of the reply, the Manager stated as follows: "That the assertion of the union in para 2 of its letter dated 17th September 1971 are contrary to truth and facts. The starting and ending of the shifts of Munshies and the Miners are not at one and the same time. The Munshis 1st, 2nd and 3rd shifts are from 8 A.M. to 4 P.M.; 4 P.M. to 12 midnight and 12 midnight to 8 A.M. respectively while the miners/loaders' shift are from 10 A.M. to 6 P.M. 6 P.M. to 2 A.M. and 2 A.M. to 10 P.M. respectively. On the day in question when the concerned workman reported to his duty at 12 midnight-second shift-miners were still on duty as their duty ends at 2 A.M. It is the duty of the

Munshi to receive the loads and other particulars of loading and the miners/loaders and to record the same in his Pocket Note Book, which the concerned workman neglected to do and when the Asstt. Manager wanted for the Pocket Note Book, he refused to part with it". This letter of the Manager dated 20th September 1971 was filed in the Tribunal by the union on 25th July 1971. There is nothing on record to show that the position explained by the Manager in para 4 of his letter dated 20th September 1971 has been controverted by the union by any subsequent letter to the Assistant Labour Commissioner. The confusion sought to be created by Sri S. P. Singh, appearing on behalf of the union has been clarified by para 4 of the Manager's letter dated 20th September 1971 addressed to the Asstt. Labour Commissioner. The chargesheeted workman was not telling the truth when he said before the Enquiry Officer that he did not meet either the loaders or the pick miners. In fact they worked from 12 midnight to 2 A.M. while the charge-sheeted workman was the Munshi on duty. He admitted before the Enquiry Officer that in his Pocket Note Book he writes the names of miners and loaders. On the day in question he did not mention their names in his Pocket Note Book. I fully agree with the following finding of the Enquiry Officer: "The entries in the Book are the product of after-thought and are not genuine. This only confirms the stand of the Management that the workman has not recorded the names of the miners against the tubs and not recorded the names at all".

16. From the above discussion it is clear that both the charges against the concerned workman, namely, insubordination and negligence have been established. When it is remembered that the payment to the miners and loaders are made on the basis of the raising reports prepared by the Munshi, as asserted by the management in para 7 of its written statement and not contradicted by the workmen, the negligence is a serious one. The Manager has pointed out that it is unusual for 19 miners to load 25 tubs. It is for this reason that he wanted to inspect the Pocket Note Book. The charge-sheeted workman was undoubtedly guilty of gross negligence, which was likely to cause heavy financial loss to the company. Besides, the past record of the concerned workmen is far from satisfactory. He was once dismissed for proved misconduct with effect from 12th February 1968. He was no doubt reinstated on the basis of a settlement during conciliation proceedings. But this does not prove that he was not guilty of the misconduct for which the order of dismissal was passed against him. On another occasion he was suspended from 21st September 1970 to 1st October 1970 for proved misconduct. Para 15 of the management's written statement refers to his past record of service; no rejoinder was filed by the workmen refuting the allegations in para 15.

17. For the reasons stated above I am satisfied that the order of dismissal in the present case was justified. I therefore hold that the action of the management in dismissing Sri Anant Lal, the charge-sheeted workman with effect from the 23rd August, 1971 is justified and that he is not entitled to any relief. I make an award accordingly.

18. Let a copy of this award be forwarded to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) A. C. SEN,  
Presiding Officer.

[No. L/2012/191/71-LRII.]

S.O. 2566.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the Agent, Karam Chand Thapar and Brothers Private Limited, Central Office Bhowra, Post Office Bhowra, District Dhanbad, and their workmen, which was received by the Central Government on the 5th September, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
No. 3 DHANBAD

REFERENCE No. 85 of 1969

PRESENT:

Shri B. S. Tripathi, Presiding Officer.

PARTIES:

Employers in relation to the Bhowra Colliery of Messrs Karamchand Thapar and Brothers, Post Office Bhowra, District—Dhanbad.

AND

Their workmen—represented by Colliery Mazdoor Sangh, Branch—Bhowra Colliery, Post Office—Bhowra, District—Dhanbad.

APPEARANCES:

For Employers—Sri T. P. Choudhury, Advocate, Sri J. N. P. Sahl, Labour and Law Adviser, Bharat Coking Coal Ltd. added as a party vide order No. 18 dated 23rd April, 1972.

For workmen—Sri P. K. Bose, Advocate and Sri K. N. Singh, Executive Committee Member, Colliery Mazdoor Sangh, Dhanbad.

INDUSTRY: Coal

STATE: Bihar.

Dhanbad, the 30th August 1972

AWARD

The present reference arises out of order No. 2/60/69-LRII dated the 6th November, 1969 of the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment) under Section 10(1)(d) of the Industrial Disputes Act, 1947 in relation to an industrial dispute between the parties mentioned above, with respect to matters specified in the schedule of reference which is extracted below—

"whether the demand of the Colliery Mazdoor Sangh, Dhanbad, for fixation of the grade of Sarvashri Deb Das Banerjee and Yogendra Prasad Singh, Lamp room in-charge, Bhowra colliery of Messrs Karam Chand Thapar and Brothers, Post office Bhowra, District Dhanbad, in Grade I with effect from the 15th August, 1967 as recommended by the Central Wage Board for Coal Mining Industry is justified? If so, to what relief are the workmen entitled?"

2. The parties have filed their respective written statements. I consider it unnecessary to mention their respective cases as per written statements filed by them, as in the meantime the parties concerned settled the dispute out of Court amicably. They have filed a Memorandum of Settlement duly signed by their representatives who verified the same before me and prayed for making an award in terms of the settlement.

3. I have carefully considered the terms of the settlement in the light of the reference and the cases of the parties and I find that the terms are quite fair, reasonable and equitable. There is no reason why an award shall not be made in terms and conditions laid down in the Memorandum of Settlement and I make the award accordingly. The Memorandum of Settlement shall form part of the award and is marked Annexure 'A' thereof

4. Let the Award be submitted to the Central Government under Section 15 of Industrial Disputes Act, 1947.

(Sd.) B. S. TRIPATHI,  
Presiding Officer.

#### ANNEXURE 'A'

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(No. 3), AT DHANBAD

In the matter of:

REFERENCE No. 85 OF 1969

#### PARTIES:

Employers in relation to Bhowra Colliery of then  
M/s. Karam Chand Thapar & Bros.

AND

Their Workmen

#### Memorandum of Settlement

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

(1) That S/Sri Deo Das Banerjee and Yogendra Prasad Singh (Lamp Room Incharges) the workmen concerned in the present Reference shall be placed in Clerical Grade I (One) [under the Recommendation of the Central Wage Board (Coal Mining Industry)] by the Management of Bhowra Colliery of then M/s. Karam Chand Thapar & Co. on and from 1st September 1972 with starting basic salary of Rs. 245/- (Rupees Two hundred Forty Five only) per month in each case.

(2) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

(3) The parties shall bear their own cost of proceedings.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms thereof.

For the Employer  
(Sd.) Illegible,  
Agent.

For the Workmen.  
(Sd.) P. K. BOSE,  
Advocate.

Bhowra Colliery  
(Sd.) Illegible,  
Advocate.

(Sd.) K. N. SINGH,  
Executive Committee Member,  
Colliery Mazdoor Sangh,  
Dhanbad.

For Bharat Coking Coal Ltd.  
(Sd.) J. N. P. SAHI,  
Labour and Law Adviser,  
Bharat Coking Coal Ltd.  
Dated the 29th August, 1972.

(Sd.) B. S. TRIPATHI,  
Presiding Officer.  
[No. 2/60/69-LRII.]

S.O. 2567.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 1), Dhanbad in the industrial dispute between the employers in relation to the management of Kankanee Colliery of Messrs Oriental Coal Company Limited, Post Office Bansjora, District Dhanbad, and their workmen which was received by the Central Government on the 5th September, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 1), DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 69 OF 1971

#### PARTIES:

Employers in relation to the management of Kankanee Colliery of Messrs Oriental Coal Company Limited, Post Office Bansjora, District Dhanbad.

AND

Their Workmen

#### PRESENT:

Shri A. C. Sen, Presiding Officer.

#### APPEARANCES:

For the Employers.—Shri A. K. Tooley, Manager, Kankanee Colliery.

For Bharat Coking Coal Ltd.:—Shri J. N. P. Sahi, Labour and Law Adviser.

For the Workmen.—Shri J. D. Lall, Advocate, Executive Committee Member, Bihar Colliery Kamgar Union, Dhanbad.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 29th August, 1972

#### AWARD

The present reference arises out of Order No. L/2012/140/71-LRII, dated New Delhi, the 26th October, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:

"Whether the action of the management of the Kankanee Colliery of Messrs Oriental Coal Company Limited, Post Office Bansjora, District Dhanbad, in stopping from work Shri Ali Hussain, Mining Sirdar with effect from the 1st February, 1971, is justified? If not, to what relief is the workman entitled?"

2. The dispute has been settled by the parties out of Court. A Memorandum of settlement dated the 29th August, 1972 has been filed to-day. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the Memorandum of Settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act 1947.

(Sd.) A. C. Sen,  
Presiding Officer.

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(NO. 1), AT DHANBAD

In the matter of:

REFERENCE No. 69 OF 1971

#### PARTIES:

Employers in relation to Kankanee Colliery of Messrs Oriental Coal Co. Ltd.

AND

Their workmen.

#### Memorandum of Settlement

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

(1) That since Shri Ali Hussain (Mining Sirdar) the workman concerned in the present Reference had been already employed by the management of the Union Angarpathra Colliery (which is also a Coking Coal Mine) of Messrs Union Coal Co. Ltd. on and from 2nd August 1971 as a Mining Sirdar, he is no longer interested to pursue the present Reference and be employed in the Kankanee colliery above-mentioned, or make any claim for back wages etc.

(2) That the said management of Kankanee Colliery will pay a sum of Rs. 200/- (Rupees two hundred only) as cost of proceedings to Shri J. D. Lall (Advocate), Executive Committee Member of Bihar Colliery Kamgar Union, latest by the 15th September, 1972.

(3) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms thereof.

For the Employers

(Sd.) Illegible,

Manager,  
Kankanee Colliery.

For the Workmen.

(Sd.) J. D. LALL,

(Advocate)

Executive Committee Member  
Bihar Colliery Kamgar  
Union, Dhanbad.

For Bharat Coking Coal Ltd.

J. N. P. SAHI,

Labour and Law Adviser,

Bharat Coking Coal Ltd.

Dated the 29th August, 1972.

(Sd.)

Presiding Officer.

[No. L/2012/140/71-LRII.]

**S.O. 2568.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the management of Bhowra Colliery of Messrs Oriental Coal Company Limited, Post Office Bhowra, District Dhanbad, and their workmen, which was received by the Central Government on the 4th September, 1972.

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

#### REFERENCE NO. 23 OF 1970

In the matter of an industrial dispute under S. 10(1)(d) of the Industrial Disputes Act, 1947.

#### PARTIES:

Employers in relation to the management of Bhowra Colliery of Messrs Oriental Coal Company Limited, Post Office Bhowra, District Dhanbad.

AND

Their workmen

#### APPEARANCES:

On behalf of the employers in relation to the management of Bhowra Colliery of Messrs Oriental Coal Company Limited, Post Office Bhowra, District Dhanbad.—Shri T. P. Choudhury, Advocate.

On behalf of the Bharat Coking Coal Ltd.—Shri S. S. Mukherjee, Advocate.

On behalf of the workmen—Shri P. K. Bose, Advocate

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 30th August, 1972

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Bhowra Colliery of Messrs Oriental Coal Company Limited, Post Office Bhowra, District Dhanbad and their workmen, by its Order No. 2/122/70-LR.II dated 27th October, 1970 referred to this Tribunal under S. 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:—

#### SCHEDULE

"Whether the management of Bhowra Colliery of Messrs Oriental Coal Company Limited, Post Office Bhowra, District Dhanbad, are justified in not paying Variable Dearness Allowance to their workmen at the rate of Rs. 1.53 with effect from the 1st April, 1970? If not, to what relief are the workmen concerned entitled and from which date?"

2. Workmen as well as the employers filed their statement of demands. After impleading them as party Bharat Coking Coal Ltd. also filed their statement of demands.

3. One of the recommendations of the Central Wage Board for the Coal Mining Industry deal with Variable Dearness Allowance payable to the workmen. As per the recommendation in para 27 of Chapter VII under the title "Minimum Wage" the Variable Dearness Allowance (VDA) calculated on the basis of cost of living index and payable is as following:—

Period	Rate
From 15-8-1967 to 30-9-1967.	At Rs. 0.78 per day per head.
From 1-10-1967 to 31-3-1968.	At Rs. 1.11 per day per head.
From 1-4-1968 to 30-9-1969.	At Rs. 1.47 per day per head.
From 1-10-1969 to 31-3-1970.	At Rs. 1.29 per day per head.
From 1-4-1970 to 30-9-1970.	At Rs. 1.53 per day per head.

The colliery Mazdoor Sangh, the union which has sponsored the present dispute, served a strike notice under its letter No. 61/67-4920-4949 dated 8th September, 1967 on the management of a number of collieries, including the present management of Bhowra Colliery to go on token strike for one day on 3rd October, 1967 if the recommendations of the Central Wage Board for the Coal Mining Industry accepted and announced by the Government of India, Ministry of Labour, Employment & Rehabilitation vide their resolution No. WB-16(5)/66 dated New Delhi, the 21st July, 1967 were not implemented with effect from 15th August, 1967. To avert this strike situation the matter was mutually discussed between the management and the union and after lengthy discussion a settlement was arrived at on 29th September, 1967 between the common managements of a number of collieries, inclusive of Bhowra Colliery and the union, Colliery Mazdoor Sangh. As per the first term of the settlement the management agreed to implement the recommendations of the Wage Board from 15th August, 1967 and accordingly, paid the VDA to the workmen at Rs. 0.78 per day per head from 15th August, 1967. Now, the dispute is as regards the payment of the VDA @ Rs. 1.53 from 1st April, 1970. These facts are not in dispute. The case of the management is that they were not in a position to pay the VDA at Rs. 1.53 to the workmen with effect from 1st April, 1970 to 31st August, 1970, stating that they had paid at the above rate from 1st September, 1970. The reason

shown by the management for not paying VDA at Rs. 1.53 from 1st April, 1970 to 31st August, 1970 is that their principal customer M/s. Hindustan Steel Ltd. did not agree to pay the price at a higher rate and that unless there was corresponding increase in the price of coal it could not be possible with economics of the industry to pay the VDA at the above rate. In the same breath the management has pleaded that with a view to maintain cordial relations, they unilaterally agreed to pay the VDA at that rate with effect from 1st September, 1970 by curtailing other necessary expenses. The management also filed an application taking a preliminary objection against sustainability of the reference, contending that in respect of the same Bhowra Colliery and its workmen represented by the same Colliery Mazdoor Sangh, the Government of India had referred for adjudication an industrial dispute regarding payment of VDA to the Central Government Industrial Tribunal (No. 3) Dhanbad where an industrial dispute is pending as Reference No. 44/69. According to the workmen the management has been making continuous profits and was financially in a position to pay the VDA as laid down by the Wage Board. While the case was pending for documents, under The Jharia Coking Coal Mines (Emergency Provisions) Ordinance, 1971 and the Coking Coal Mines (Emergency Provisions) Act, 1971 the colliery was taken over by the Government of India and at first a Custodian and Custodian General and then the Bharat Coking Coal Ltd., (A Government of India Company) was appointed to manage and administer the colliery with effect from 17th October, 1971. On the application of the workmen at first the Custodian and the Custodian General and then the Bharat Coking Coal Ltd. was impleaded a party in view of Section 18 of the Industrial Disputes Act, 1947. The Bharat Coking Coal Ltd. also filed the written statement adopting the written statement of the previous management and taking further pleas that there was no relationship of employers and employees between them and the workmen, that there was no industrial dispute between them and the workmen and that they are not liable or responsible for any act of the previous management prior to the date of taking over of the colliery. The workmen were represented by P. K. Bose, Advocate, the previous management by Shri T. P. Choudhury, Advocate and the Bharat Coking Coal Ltd. by Shri S. S. Mukherjee, Advocate. On admission by the workmen, Exts. M1 and M2 for the previous management and on admission by the previous management and Bharat Coking Coal Ltd. Exts. W.1 to W.4 for the workmen were marked. On behalf of the previous management 2 witnesses were examined and Ext. M3 was marked. The workmen examined a witness and marked Ext. W.5. No document was filed and no witness was examined for the Bharat Coking Coal Ltd.

4. The preliminary objection is based upon the order of reference, Ext. M2 made by the Central Government to the Central Government Industrial Tribunal No. 3, Dhanbad. The matter referred to the Tribunal was thus:

#### SCHEDULE

"Whether the management of Bhowra Colliery of M/s. Karamchand Thappar & Brothers, P.O. Bhowra, District Dhanbad, having regard to their financial capacity are justified in not paying VDA as per the recommendations of the Wage Board for Coal Industry. If not, what should be the quantum of VDA and from what date?"

It is true that the Reference was in respect of payment of VDA to the workmen by the management of Bhowra Colliery. But it can be seen that in the present Reference, though the dispute is between the same colliery and its workmen, it is confined to a specific period at a specific rate, viz. Rs. 1.53 from 1st April, 1970. Thus, the reference, Ext. M2 made by the Central Government to the Central Government Industrial Tribunal No. 3, Dhanbad cannot be a bar to the adjudication

of the present Reference. However, the parties were given time to move the Central Government and get either the Reference from this Tribunal transferred to the Central Government Industrial Tribunal No. 3 or get Reference No. 44/69 transferred to this Tribunal so that both the Reference could be disposed of by one and the same Tribunal. But in spite of giving time from 21st June, 1971 to 20th March, 1972 it is not known whether the parties moved the Central Government or if moved what order was passed by the Central Government. Hence, I consider that no useful purpose would be served by adjourning the case any further. The preliminary objection is over ruled.

5. It is true that the recommendations of the Central Wage Board for the Coal Mining Industry have no statutory effect but on the strike notice served by the workmen through their union the management entered into the agreement, Ext. M1 (the same as Ext. W.1) undertaking to implement the recommendations with effect from 15th August, 1967, inclusive of the recommendation for payment of VDA. Ext. M1 is marked on admission by the parties. The management has also started payment of VDA from 15th August, 1967 at Rs. 0.78 per head per day in accordance with the formula of the Wage Board. Admittedly, the management did not pay the VDA to the workmen at Rs. 1.11 from 1st October, 1967, at Rs. 1.47 from 1st April, 1968 and at Rs. 1.29 from 1st October, 1969. Obviously the workmen were aggrieved as the management did not honour the settlement, Ext. M1 and they had to agitate. On account of the strike notice served by the Colliery Mazdoor Sangh, the management entered into another settlement dated 13th November, 1969 agreeing to pay the VDA at Rs. 1.29 with effect from 1st October, 1969. The settlement dated 13th November, 1969 is Ext. M3. It was stated in para 2 of Ext. M3 that the management had fully implemented the wage board recommendations with effect from 15th August, 1967 including VDA at Re. 0.78 paise. In para 3 it was stated that it was not possible for the management to pay the increased VDA at Rs. 1.11 from 1st October, 1967 but, however, despite adverse financial conditions started paying the VDA at Rs. 1.11 with effect from 15th September, 1969. It is admitted by the management that they agreed and paid the VDA at Rs. 1.29 with effect from 1st October, 1969. It follows therefore that the management has paid the VDA to the workmen at the rates of Re. 0.78, Rs. 1.11 and at Rs. 1.29, though not from the dates from which it was payable in terms of the recommendations of the Central Wage Board for the Coal Mining Industry and it was paid in terms of the settlement, Ext. M1. The subsequent settlement, Ext. M3 had to be entered into in order to avert the strike and also because arrears of VDA in terms of the recommendations of the Central Wage Board and the settlement, Ext. M1 were to be paid. Term 2 of the settlement, Ext. M3 says that the question of arrears regarding VDA would be discussed mutually between the management and the union. It is significant to note that in the settlement, Ext. M3 the management has not denied their liability to pay the arrears of VDA from the dates from which it was payable at different rates. In view of Exts. M1 and M3 and their pleading the management cannot deny that they were bound to implement the recommendations of the Central Wage Board for the Coal Mining Industry or that they were bound to pay the VDA from the dates from which it was payable at different rates. I find no substance in the contention that the settlement, Ext. M3 was in supersession of the settlement, Ext. M1. Ext. M3 settlement is in continuation of Ext. M1 settlement. It follows, therefore that the management was bound to pay the VDA at Rs. 1.53 per day per head from 1st April, 1970. The management contends that they had paid at the above rate from 1st September 1970. This fact is not admitted by the workmen in their pleading or by their witness. It does not make any difference whether the VDA is due to the workmen at Rs. 1.53 from 1st April, 1970 to 30th September 1970 or 31st August, 1970, because it is a matter for

consideration for the labour court while implementing the award. Now, it is to be seen whether the management had any justification in not paying the VDA at Rs. 1.53 from 1st April, 1970. The plea of the management is two fold, firstly that their principal consumer M/s. Hindusthan Steel Ltd. agreed to pay Rs. 5.00 per tonne from September, 1967, so they paid the VDA at Re. 0.78 from 15th August, 1967, that thereafter there was an increase of Rs. 1.75 in the price of coal and as such the management paid at Rs. 1.29 with effect from 1st October, 1969 and that because M/s. Hindusthan Steel Ltd. did not agree to pay more thereafter, it was not possible for the management to pay VDA at Rs. 1.53 from 1st April, 1970 and secondly, that unless there was corresponding increase in price of coal it was not possible with economics of the industry to pay VDA at Rs. 1.53 from 1st April, 1970. It is not known on what basis the management considers that payment of VDA in accordance with the recommendations of the Central Wage Board for the Coal Mining Industry is linked up with payment of price by their principal consumer M/s. Hindusthan Steel Ltd. Neither the condition is laid down in the recommendations nor in any of the orders of the Central Government. Non-payment of the price as desired by the management by M/s. Hindusthan Steel Ltd. does not follow automatically that the financial position of the colliery did not permit the management to implement the recommendations. It emerges from the evidence of MW.1 that 80 per cent of coal produced by Bhowra Colliery was consumed by M/s. Hindusthan Steel Ltd. and the remaining 20 per cent was being sold to Indian Iron & Steel Co. and Tata Iron & Steel Co., Ltd. It is not known at what price the Indian Iron & Steel Co. and Tata Iron & Steel Co. Ltd., were purchasing the coal of the colliery. Regarding financial position of the colliery no evidence is brought on record. MW. 1 has admitted that he did not see at any time the colliery balance sheet or the profit and loss account. He did not know anything about cost accounting MW. 2 also did not say anything regarding the financial position of the colliery. The management says that from 1st September 1970 they have paid the VDA at Rs. 1.53. If they could not pay at Rs. 1.53 from 1st April, 1970 what enabled them to pay at this rate from 1st September, 1970 till the date of taking over of the colliery, is not explained satisfactorily. It is an admitted position that from the date of taking over of the colliery the Bharat Coking Coal Ltd. is paying the VDA at the due rate. This is also a fact to rebut the plea of the management that the colliery was sustaining loss. If the old management could not pay in view of the loss sustained by the colliery, it is not comprehensible how the Bharat Coking Coal Ltd. is able to pay at the scheduled rate. I cannot agree that the Bharat Coking Coal Ltd. is using the finances of other collieries to pay the VDA to the workmen of Bhowra Colliery. For these reasons I find no justification on the part of the management in refusing to pay to the workmen the VDA at Rs. 1.53 per head per day from 1st April, 1970.

6. Among the objections taken by the Bharat Coking Coal Ltd. the one relating to their liability is crucial. Their contention is that they are not responsible to discharge the liability incurred by the management of the previous employers. A glance through the provisions of The Jharia Coking Coal Mines (Emergency Provisions) Ordinance, 1971 and the Coking Coal Mines (Emergency Provisions) Act, 1971 shows that the Bharat Coking Coal Ltd. has taken over the entire management and administration of Bhowra Colliery from its previous employers. No property, movable or immovable and no assets belonging to the colliery seems to have been left with the previous management. The decision of the Supreme Court in Bihar State Road Transport Corporation v. State of Bihar (1970-11-L.L.J. 138) is a case on the point. In view of this decision I have no hesitation to hold that the Bharat Coking Coal Ltd. is successor-in-title of the previous management as far as Bhowra Colliery is concerned and is also responsible to pay to the workmen

the arrears of less paid VDA which were payable by the previous management. The second objection taken by the Bharat Coking Coal Ltd. against the reference is that there was no relationship between them and the workmen of employers and employees. This objection is not sustainable on the very face of it, because it is an admitted position that all the employees of Bhowra Colliery along with the manager as on 16th October, 1971 were taken over by the Government of India with effect from 17th October, 1971 and thus, they have all become employees of the Government of India and hence of the Bharat Coking Coal Ltd. and they continue to be so even now. The third and the last objection taken by the Bharat Coking Coal Ltd. is that there was no dispute or difference between the Bharat Coking Coal Ltd. and the workmen regarding the subject matter of the Reference. I find no substance in this objection also, because on behalf of the workmen Colliery Mazdoor Sangh had raised the dispute with the previous management and went to the Assistant Labour Commissioner (Central) Dhanbad in conciliation over it. As I have already held, Bharat Coking Coal Ltd. is the successor-in-title of the previous management and as such the dispute by the workmen with the previous management should be deemed as the dispute raised with the Bharat Coking Coal Ltd. also. As pointed out by the Patna High Court in CWJC 1513 of 1969 dated 1st September, 1971, Managing Contractor V the Presiding Officer & Others, the demand on the management made through the Assistant Labour Commissioner (C) which the management refuted before the Assistant Labour Commissioner should be deemed as sufficient to constitute an industrial dispute.

7. As a result of the above discussions I find that the management of Bhowra Colliery of M/s. Oriental Coal Co. Ltd. P.O. Bhowra, District Dhanbad are not justified in not paying the VDA to their workmen at the rate of Rs. 1.53 with effect from the 1st April, 1970, and consequently, they are liable to pay the VDA at Rs. 1.53 from the 1st April, 1970 till the date at which it was payable at this rate after deducting the payments already made during this period as the VDA and, as the successor-in-title of the management of Bhowra Colliery of M/s. Oriental Coal Co. Ltd., P.O. Bhowra, District Dhanbad the Bharat Coking Coal Ltd. is also liable to pay the same to the workmen. The award is made accordingly and submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer.

Central Govt. Industrial Tribunal, (No. 2) Dhanbad.

[No. 2/122/70-LRII.]

S.O. 2569.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of East Bassuria Colliery of Messrs. The East Bassuria Colliery Company Private Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 29th August, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PARTIES:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 53 of 1971

In the matter of an industrial dispute under S. 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of East Bassuria Colliery of Messrs. The East Bassuria

Colliery Company Private Limited, Post Office  
Kusunda, District Dhanbad.

AND

Their workmen.

**APPEARANCES:**

On behalf of the employers.—Shri D. Narsingh,  
Advocate.

On behalf of the workmen.—Shri J. D. Lall, Advoca-  
cate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad 26th August, 1972/4th Bhadra, 1894 Saka

**AWARD**

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of East Basuria Colliery of Messrs. The East Basuria Colliery Company Private Limited, Post Office, Kusunda, District Dhanbad and their workmen, by its order No. L-2012/47/71-LR.II, dated 5th May, 1971 referred to this Tribunal under S. 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:—

**SCHEDULE**

"Whether the action of the management of East Basuria Colliery of Messrs The East Basuria Colliery Company Private Limited, Post Office Kusunda, District Dhanbad, in dismissing Shri Chandra Das, Loco Driver from service with effect from the 7th January, 1971 is justified? If not, to what relief is he entitled?"

2. On 31-7-1972 Shri J. D. Lall, Advocate, representing the workmen and Shri D. Narsingh, Advocate, representing the employers filed a compromise memo and verified the contents as correct. Having gone through the compromise memo I find its terms as favourable to the workmen in general and the affected workman in particular. The compromise is, therefore, accepted and the award is made in terms of the compromise. The compromise memo is annexed herewith and made part of the award. The award is submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Govt. Industrial Tribunal,  
No. 2, Dhanbad.

**BEFORE THE PRESIDING OFFICER, CENTRAL  
GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2,  
DHANBAD.**

REFERENCE No. 53 OF 1971

Employers in relation to East Basuria Colliery.

AND

Their Workmen

Joint memo for compromise

Parties aforesaid respectfully beg to submit as under:

1. The parties have amicably settled their dispute under adjudication in the present reference on terms hereinafter stated.

(a) Employers shall pay to the workman on 12th August, 1972 at the residence of Shri D. Narsingh, Advocate, the sum of Rs. 700/- (Rupees Seven Hundred) only in full and final settlement of all claims of the workman concerned against the management.

(b) The dismissal of the workman will stand as ordered by the management and the workman shall not claim reinstatement in the service of the management or any other relief from the management in respect of his dismissal.

(c) The workman or his union on his behalf has no other claim against the management.

(d) The parties pray that the Tribunal may be pleased to accept the terms of this compromise and give its award in terms thereof.

(e) Parties shall bear their own costs of these proceedings.

For Workmen:

(Sd.) J. D. LALL,

31-7-1972.

Advocate for Workmen.

For Employers:

(Sd.) D. NARSINGH,

Advocate.

31st July, 1972.

[No. L/2012/47/71-LR.II.]

S.O. 2570.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the management of Bhowra Colliery of Messrs Bhowra Kankanee Collieries Limited, Post Office, Bhowra, District Dhanbad, and their workman, which was received by the Central Government on the 1st September, 1972.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(No. 3) DHANBAD**

REFERENCE NO. 94 OF 1969

**PARTIES:**

Employers in relation to the management of  
Bhowra Colliery of Messrs. Bhowra Kankanee  
Collieries Ltd., P.O. Bhowra, District Dhanbad.

vs.

Their workmen represented by Colliery Mazdoor  
Sangh, Branch Bhowra Colliery, PO. Bhowra,  
District Dhanbad.

**APPEARANCES:**

For Employers—Sri S. S. Kapoor, Advocate, Sri  
J. N. P. Sahi, Labour and Law Adviser, Bharat  
Coking Coal Ltd added as a party vide order  
No. 16 dated 23-3-1972.

For Workmen—Sri P. K. Bose, Advocate.

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, the 24th August, 1972

**AWARD**

The present reference arises out of order No. 8/62/69-LR.II, dated the 8th December 1969 of the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) in relation to an industrial dispute between the parties, mentioned above, with respect to the matters specified in the schedule of reference. The schedule is extracted below:—

"Whether the action of the management of Bhowra Colliery of Messrs. Bhowra Kankanee Collieries Limited in converting the 19 C.P. Miners mentioned below to machine loaders, with effect from the 1st September 1966, with consequent effect on their nature of work, is justified? If not, to what relief the workmen are entitled?"

Names of C.P. Miners

1. Shri Jhalu Pasi.
2. Shri Rebai Gope.
3. Shri Dulu Pasi.
4. Shri Chhitan Pasi.
5. Shri Banwarj Lodh.
6. Shri Sobram Bhuib.
7. Shri Biswanath Pasi.
8. Shri Surajball Pasi.
9. Shri Pitamber Pasi
10. Shri Nathi Pasi.



11. Shri Ramratan Pasi.
12. Shri Ramsankar Lodh.
13. Shri Gangdin Pasi.
14. Shri Durga Pasi.
15. Shri Rajua Pasi.
16. Shri Turi Kahar.
17. Shri Ramdhani Nonia.
18. Shri Somar Bhuia and
19. Shri Akloo Bhuia."

2. The parties have filed their respective written statements. I do not consider it necessary to state their cases as the parties concerned in the meantime settled the dispute out of Court amicably. They have filed a memorandum of settlement duly signed by their representatives who verified the same before me.

3. I have perused and considered the terms of the compromise in the light of the reference and the cases of the parties and I find that the terms are quite fair, just and equitable. There is no reason why an award shall not be made in terms and conditions laid down in the memorandum of settlement and I make award accordingly. The memorandum of settlement shall form part of the award and is marked as Annexure 'A' thereof.

4. Let the award be submitted to the Central Government under Section 15 of Industrial Disputes Act, 1947:

(Sd.) B. S. TRIPATHI,  
Presiding Officer,  
Central Govt. Industrial Tribunal cum-Labour  
Court (No. 3), Dhanbad.

#### ANNEXURE 'A'

BEFORE THE HON'BLE PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(No. 3)

In the matter of:

REFERENCE NO. 94 OF 1969

#### PARTIES:

Employers in relation to Bhowra Colliery of M/s.  
Oriental Coal Co. Ltd. (Formerly M/s. Bhowra  
Kankanee Collieries Ltd.)

vs.

Their Workmen

#### Memorandum of Settlement

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:—

(1) That S/Shri Jhalu Pasi and 18 other C. P. Miners (whose name are noted below) the workmen concerned in the present Reference shall be paid by the management of Bhowra Colliery of M/s. Oriental Coal Co. Ltd., lump-sum of Rs. 100/- (Rupees one hundred only) each (that is, all together a sum of Rs. 1,900) (Rupees One thousand Nine hundred only) as Ex-gratia amount.

#### Name of the concerned workmen

1. Shri Jhalu Pasi.
2. Shri Rabai Gope.
3. Shri Dulu Pasi.
4. Shri Chhitan Pasi.
5. Shri Banwari Lodh.
6. Shri Sobram Bhuia.
7. Shri Biswanath Pasi.
8. Shri Surajballi Pasi.
9. Shri Pitamber Pasi.
10. Shri Nathi Pasi.
11. Shri Ramratan Pasi.
12. Shri Ramsankar Lodh.
13. Shri Gangdin Pasi.
14. Shri Durga Pasi.
15. Shri Rajua Pasi.
16. Shri Turi Kahar.
17. Shri Ramdhani Nonia.
18. Shri Somar Bhuia and
19. Shri Akloo Bhuia."

(2) That the aforesaid Nineteen concerned workmen will continue to work as Machine Loader as at present on existing rate of wages since C.P. Miner's work was not available.

(3) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudications in the present Reference.

(4) The parties shall bear their own cost of proceedings.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms there.

For the Employer:

(Sd.) Illegible,

Agent.  
Bhowra Colliery

For Bharat Coking Coal Ltd.

(Sd.) J. N. P. SAHAL,  
Labour & Law Adviser,  
Bharat Coking Coal Ltd.  
Dated 14th August, 1972

For the Workmen:

(Sd.) S. S. KAPOOR,  
Advocate.

(Sd.) P. K. BOSE,  
Advocate.

(Sd.) K. N. SINGH,  
Executive Member,  
Colliery Mazdoor Sangh,  
Dhanbad.

[No. 8/62/69-LRII.]

**S.O. 2571.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkharkee, District Dhanbad and their workmen, which was received by the Central Government on the 28th August, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO 2) AT DHANBAD

#### PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 26 OF 1971

In the matter of an industrial dispute under S.10(1) (d) of the Industrial Disputes Act, 1947

#### PARTIES:

Employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company, Limited, Post Office Nudkharkee, District Dhanbad

AND

Their workmen.

#### APPEARANCES:

On behalf of the employers in relation to the management of Madhuband colliery of Messrs Oriental Coal Company Ltd., Post Office Nudkharkee, Dist. Dhanbad.—Shri S. S. Kapur, Advocate.

On behalf of the Bharat Coking Coal Ltd.—Shri S. S. Mukherjee, Advocate.

On behalf of the workmen—Shri J. D. Lall, Advocate.

STATE: Bihar,

INDUSTRY: Coal.

Dhanbad, 24th August 1972

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkharkee, District Dhanbad and their workmen, by

its order No. 2/203/70 LR II dated 4th February, 1971 referred to this Tribunal under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

#### SCHEDULE

"Whether the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post office Nudkhurkee, District Dhanbad, was justified in re-appointing to Sarvashri Ram Narayan Gope, Miners, with effect from 1st September, 1970? If not, to what relief are the workmen entitled?"

2. On 27th July 1972 Shri J. D. Lall, Advocate representing the workmen, Shri S. S. Kapur, Advocate representing the employers and S. S. Mukherjee, Advocate representing the Bharat Coking Coal Ltd. filed a compromise memo and verified the contents as correct. Having gone through the compromise memo I find its terms as favourable to the workmen in general and the affected workmen in particular. The compromise is, therefore, accepted and the award is made in terms of the compromise. The compromise memo is annexed herewith and made part of the award. The award is submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer.

Central Govt. Industrial Tribunal  
(No. 2) Dhanbad.

BEFORE THE HON'BLE PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. 11. AT DHANBAD

In the matter:

REFERENCE No. 26 OF 1971

PARTIES:

Employers in relation to Madhuband Colliery of M/s  
Oriental Coal Co. Ltd.

AND

Their Workmen

#### Memorandum of Settlement

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

1. That S/Sri Ram Narayan Gope and Baijnath Gope (Miners) the workmen concerned in the present Reference shall be reinstated by the management of Madhuband Colliery of M/s Oriental Coal Co. Ltd. on and from 26th July 1972 without any back wages and they will be employees as miner/loader.

2. That the period intervening from the date of refusing employment (which gave rise to the present Reference) till the date of resumption of duty shall, for the purpose of continuity of services, be treated as leave without pay, but the workmen concerned will be eligible to proportionate leave or quarterly bonus provided they put in proportionate qualifying attendance during the remaining period of current year or current quarter, as the case may be.

3. In the event of the failure of the concerned workmen to report for work within a fortnight from 26th July 1972 the workmen concerned shall have no right for re-employment etc. under this agreement.

4. The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

5. The management agrees to pay Rs. 100 (Rupees one hundred only) as the cost of the Union.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this settlement and to give its Award in terms thereof.

For the Workmen

Manager,  
Madhuband Colliery  
Oriental Coal Company

(Sd.) J. D. LALL,  
Vice President,  
B. B. K. Union.  
for Bharat Coking Coal Ltd.  
(Sd.) J. N. SAHI,

Central Govt. Industrial Tribunal (No. 2) Dhanbad Labour and Law Adviser, Bharat Coking Coal Ltd.

Dated 23rd July, 1972.

[No. 2/203/70-LRII.]

S.O. 2572.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Murulidih 20/21 Pits Colliery Mahuda, District Dhanbad and their workmen, which was received by the Central Government on the 29th August, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 27 OF 1971

In the matter of an industrial dispute under S.10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of Murulidih 20/21 Pits Colliery, Post Office Mahuda, District Dhanbad

AND

Their workmen.

Appearances:

On behalf of the employers in relation to the management of Murulidih 20/21 Pits Colliery, Post Office Mahuda, Dist. Dhanbad.—Shri D. Narsingh, Advocate.

On behalf of the Bharat Coking Coal Ltd.—Shri J. N. P. Sahi, Labour & Law Adviser.

On behalf of the workmen—Shri S. V. Acharior, General Secretary, Hindustan Khan Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad.  
3rd Bhadrapada, 1972

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Murulidih 20/21 Pits Colliery Post Office Mahuda, District Dhanbad and their workmen, by its order No. 2/182/70 LR II dated 4th February 1971 referred to this Tribunal under S.10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

#### SCHEDULE

"Whether the action of the management of Murulidih 20/21 Pits Colliery of Messrs Bengal Coal Company Limited, Post Office Mahuda, District Dhanbad, in terminating the lien on permanent appointment of Shri Motichand N. Noonla, C.R.O Loader, with effect from the 5th September, 1970 was justified? If not, to what relief is the workman entitled?"

2. On 31st July 1972 Shri S. V. Acharior, General Secretary Hindustan Khan Mazdoor Sangh, representing the workmen, Shri D. Narsingh, Advocate representing the employers and Shri J. N. P. Sahi, Labour & Law Adviser, representing the Bharat Coking Ltd. filed a compromise memo and verified the contents as correct. Having gone through the compromise memo I find its terms as favourable to the workmen in general and the affected workman in particular. The compromise is, therefore, accepted and the award is made in terms of the compromise. The compromise memo is annexed herewith and made part of the award. The award is submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Govt. Industrial Tribunal  
(No. 2) Dhanbad

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. II AT DHANBAD

In the matter of:

REFERENCE No. 27 OF 1971

PARTIES:

Employers in relation to Murulidih 20/21 Pits  
Colliery of M/s. Bengal Coal Co. Ltd.

AND

Their Workmen.

*Memorandum of Settlement*

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

- (1) That Sri Motichand Nonia (Loader) the workman concerned in the present Reference shall be reinstated by the management of Murulidih 20/21 Pits Colliery of M/s. Bengal Coal Co. Ltd. on and from 1st August 1972 without any back wages.
- (2) That the period intervening from the date of termination/of lien/(which gave rise to the present Reference) till the date of resumption of duty shall, for the purpose of continuity of services, be treated as leave without pay, but the workmen concerned will be eligible to proportionate leave or quarterly bonus provided he puts in proportionate qualifying attendance during the remaining period of current year or current quarter, as the case may be.
- (3) In the event of failure of the concerned workman to report for work within a fortnight from 1st August 1972 the workman concerned shall have no right for re-employment etc. under this agreement.
- (4) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.
- (5) The portion shall bear their own cost of proceedings.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms thereof.

For the Employer  
(Sd.) (Illegible)  
Manager  
Murulidih 20/21 Pits Colliery.  
(Sd.) (Illegible)  
Central Govt. Industrial Tribunal (No. 2),  
Dhanbad.  
Dated 31st July 1972.

For the Workmen  
(Sd.) (Illegible)  
General Secretary  
Hindustan Khan Mazdoor Sangh.  
(Sd.) J. N. P. SAHI,  
Labour & Law Adviser.  
Bharat Coking Coal

[No. 2/182/70-LRII.]

S.O. 2573.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Balihari Colliery of Messrs Balihari Colliery Company Private Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 1st September, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao.—Presiding Officer.

REFERENCE No. 30 OF 1970

In the matter of an industrial dispute under S. 10  
(1)(d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the management of Balihari Colliery of Messrs Balihari Colliery Company Private Limited, Post office Kusunda, District Dhanbad.

AND

Their workmen.

APPEARANCES:

On behalf of the employers in relation to the management of Balihari Colliery of Messrs Balihari Colliery Company (Private) Limited.—  
Shri S. S. Mukherjee, Advocate.

AND

On behalf of Bharat Coking Coal Ltd.

On behalf of the workmen—None.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 28th August, 1972.

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the management of Balihari Colliery of Messrs Balihari Colliery Company (Private) Limited, Post Office Kusunda, District Dhanbad and their workmen, by its order No. 2/104/70-LR.II dated 6th November, 1970 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the action of the management of Balihari Colliery of Messrs Balihari Colliery Company (Private) Limited, Post office Kusunda, District Dhanbad, in dismissing Shri Chhatu Modak, Pump Khalasi, with effect from the 30th August, 1968, was justified? If not, to what relief is the workman entitled?"

2. Workmen as well as the employers filed their statement of demands. Each party also filed rejoinder to the statement of the other party.

3. The facts giving rise to the dispute are in a narrow compass and they may be stated in brief. Chhatu Modak, the affected workman was a pump Khalasi in Balihari colliery. Chargesheet dated 27th July, 1968 was issued by the management to the affected workman alleging that during 1st shift on 26th July, 1968 when there was a power failure for a short period he did not care to put off the switch of the 62 H.P. motor in north dip of 16 seam, that when the power supply resumed he did not check the motor which

caused burning of the entire motor putting the company to a huge loss and that this act of his was sheer negligence and constituted misconduct under clause 29(6) & (9) of the certified standing orders of the colliery. At the same time he was suspended pending enquiry and was asked to submit his explanation. He submitted his explanation on 28th July, 1968 denying the charges. A departmental enquiry was held by B. Lal, Advocate on 16th August, 1968 in which the effected workman participated. As a result of the enquiry the enquiry officer found the affected workman guilty of the charge and the management dismissed the affected workman from service with effect from 30th August, 1968 as per the letter dated 26th August, 1968. These facts are not in dispute. According to the employers the departmental enquiry was fair, impartial and in accordance with the principles of natural justice and that the dismissal of the affected workman was for a proved misconduct and it was proper and justified. The employers also took an objection that no dispute was raised with them in respect of the dismissal of the affected workman either by the affected workman or any union on his behalf. On behalf of the workmen several objections were taken, pleading *inter alia* that B. Lal, Advocate was biased, that the affected workman was not given proper opportunity to defend himself, that no enquiry at all was held and the affected workman was physically forced to put his thumb impression on the papers and driven out of the office also forcibly, that the dismissal order was not passed by the proper authority and that the dismissal of the affected workman was victimisation for his trade union activities. It was also pleaded that witnesses examined during the departmental enquiry on behalf of the management were interested persons, that the finding of the enquiry officer was perverse and that the dismissal of the affected workman was in contravention of Section 33 of the Industrial Disputes Act, 1947 because he was dismissed during the pendency of Reference nos. 94/68, 148/67, 22/68, 16/68 and 28/68 before the industrial tribunals of Central Government at Dhanbad. In their rejoinders the employers as well as the workmen reiterated the pleas taken in their statements and denied the contrary allegations made by the opposite party. While the case was pending at the stage of receiving documents the Government of India took over the colliery along with several other coking coal mines in pursuance of The Jharia Coking Coal Mines (Emergency Provisions) Ordinance, 1971 and the Coking Coal Mines (Emergency Provisions) Act, 1971 with effect from 17th October, 1971 and appointed at first, the Custodian and Custodian General and then the Bharat Coking Coal Ltd. to manage and administer the colliery. On the application of the workmen the Custodian, Custodian General and then the Bharat Coking Coal Ltd. were impleaded as party under S. 18 of the Industrial Disputes Act, 1947. The Bharat Coking Coal Ltd. filed their statement further pleading that there did not exist any relationship of employer and employee between Bharat Coking Coal Ltd. and the affected workman, that there was no industrial dispute between Bharat Coking Coal Ltd. and the workman and that Bharat Coking Coal Ltd. is in no way liable or responsible for any act of the past management prior to the date of taking over of the colliery. But no document was filed and no witness was examined on behalf of Bharat Coking Coal Ltd. On admission by the workmen, Exts. M 1 to M 5 for the employers and on admission by the employers, Exts. W. 1 to W. 4 for the workmen were marked. On behalf of the employers 2 witnesses were examined and Exts. M 5(a) to M 10(a) and W. 5 and W. 6 were marked. On behalf of the workmen also 2 witnesses were examined and Exts. W. 7 to W. 9 were marked. The employers and Bharat Coking Coal Ltd. were represented by Shri S. S. Mukherjee, Advocate and the workmen by Shri S. V. Acharior, General Secretary, Hindusthan Khan Mazdoor Sangh. Having examined 2 witnesses and marked Exts. W. 7 to W. 9, Shri S. V. Acharior representing the workmen submitted an

application on 14th June, 1972 to permit him to lead evidence on 2 points—(1) mala fide action and vindictive attitude on the part of the raising contractor since 1967, of which the present dismissal is only a result and (2) that the starter of a motor and pump of the type regarding which the domestic enquiry was held, cannot remain in starting position independently. In view of the insertion of S. 11A in the Industrial Disputes Act, 1947 permission was granted to lead evidence on the first point but rejected on the second point. Then Shri S. V. Acharior prayed for adjournment stating that his witnesses were not ready and the prayer was rejected for the reasons stated in the order. Again Shri S. V. Acharior submitted an application for adjournment for hearing arguments. The adjournment was refused also on the same grounds. While Shri S. S. Mukherjee, Advocate for the employers and Bharat Coking Coal Ltd. was arguing the case Shri S. V. Acharior left the Court. Hence, his arguments could not be heard and the case had to proceed in accordance with Rule 22 of the Industrial Disputes (Central) Rules, 1957.

4. The affected workman was dismissed from service after holding a domestic enquiry and after the enquiry officer found him guilty of the charge. The charge sheet issued to the affected workman is Ext. M1. The allegation was that during the first shift on 26th July, 1968 when there was a power failure for a short period the affected workman did not care to put off the switch of the 62 H.P. motor, as a result of which when the power supply resumed the motor caused burning of the entire motor putting the colliery to a huge loss. It was further alleged that the affected workman had committed misconducts under clauses 29(6) and (9) of the certified standing orders. The certified standing orders are Ext. W.1 and the clauses referred to above relate to neglect of work and causing damage to property of the company respectively. The affected workman denied the charge. MW.1, B. Lal, Advocate conducted the domestic enquiry. The enquiry proceedings are Ext. M6 and the enquiry report is Ext. M7. 5 witnesses were examined on behalf of the prosecution and, as per MW.1 and the proceedings, Ext. M6 the affected workman cross-examined witnesses No. 1 and 3 and declined to cross-examine the remaining witnesses. He also gave his own statement but did not produce any defence evidence. According to MW.1 the affected workman gave his LTIs on all the statements voluntarily. Out of the 5 of the management the first witnesses was Natnagar Singh, electric helper. He was the first person to see the motor after the incident. He found that when the power failed the affected workman left the starter of the motor in start position and when the power was resumed it caused burning of the motor. It is in the evidence of Durga Prasad, electrician that there are three positions of the starter. First is start, second run and third off. The start position of the starter is to start the motor and to see that the motor is caught. This position is not kept for more than 5 minutes. If the starter is kept on the start position for more time it causes the burning of the coils. The second witness is M.K. Bhattacharjee, the colliery engineer. After the motor was taken out from the mine he found all the coils badly burnt. In his opinion the burning of all the coils had been due to leaving the starter of the motor on start position for long time. The witness estimated the cost of repair of the motor at Rs. 3,000 and other losses of the colliery owing to non-functioning of the motor at Rs. 20,000. The other witnesses corroborated the testimony of witnesses No. 1 and 2. Nothing was elicited in the cross-examination to damage the testimony of the witnesses. Admittedly, the affected workman was in charge of the motor at the material time and it was his duty to switch off the starter when the power failed. All the persons mentioned by the affected workman in his reply, Ext. M2 were examined by the management. On this evidence the enquiry officer, MW.1 found the affected workman guilty of the charge in his report, Ext. M7. On the report and on the note of the engineer, Ext. M8. the

managing director agreed with the findings of the enquiry and directed the manager to dismiss the affected workman through the letter, Ext. M9. Accordingly the manager of the colliery issued the letter, Ext. M4 dated 26th August, 1968 dismissing the affected workman from service with effect from 30th August, 1968. Under Sec. 11A of the Industrial Disputes Act, 1947 the Tribunal has to rely only on the materials on record and it has no power to take any fresh evidence in relation to the matter. In this view the request of the workmen for permission to lead evidence in respect of the starter and the motor was rejected, as it was open to the affected workman to lead such evidence in the domestic enquiry. Regarding the domestic enquiry vague allegations are made on behalf of the workmen. The affected workman, WW. 1 stated, having admitted that he was present at the time of the domestic enquiry, his thumb impressions were obtained on the statements forcibly. He went to the extent of saying that MW. 1 held his hand and forcibly took his LTI on the papers. But no such suggestion was put to MW. 1. Admittedly, he did not complain in writing that MW. 1 had obtained his LTIs forcibly. He says that he had told Shri S. V. Acharior about it. S. V. Acharior has appeared as WW. 2. There is not a word in his evidence in this respect. The domestic enquiry was held on 16th August, 1968 and the dismissal order was passed on 26th August, 1968. Ext. M 5 is a letter dated 20th August, 1968 from the affected workman to the manager of the colliery stating for the first time that no domestic enquiry was held and he was forced to give his LTIs on papers. To this letter, Ext. M 5 the manager sent a reply, Ext. M 10 dated 4th September, 1968, pointing out that Ext. M 5 though dated 20th August, 1968 was posted at Jharia post office on 31st August, 1968, received at Kusunda post office on 2nd September, 1968 as shown by the postal seals affixed on the cover, Ext. M 5(a) and delivered at the colliery on 3rd September, 1968. The cover, Ext. M 5(a) corroborates the contents of Ext. M 10. It is manifest that Ext. M 5 was anti-dated and the story of forcibly obtaining the LTIs of the affected workman is an after thought. I find that the domestic enquiry was proper and in accordance with the principles of natural justice and the dismissal of the affected workman was for proved misconduct in accordance with the certified standing orders. In view of the loss sustained by the colliery owing to the negligence on the part of the affected workman I do not consider that the punishment awarded deserves to be reduced. The workmen had pleaded that the dismissal of the affected workman was due to victimisation for his trade union activities. In this respect there is absolutely no evidence. It was not mentioned in the reply, Ext. M 2 to the charge sheet either. As the case of the workmen itself is not proved, I need not deal with the objections raised on behalf of Bharat Coking Coal Ltd.

5. I, therefore, find that the action of the management of Balihari colliery of Messrs Balihari Colliery Company (Private) Limited, Post office Kusunda, District Dhanbad, in dismissing Chhatu Modak, Pump Khalasi with effect from the 30th August, 1968 was justified and, consequently, he is not entitled to any relief. The award is made accordingly and submitted under S. 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Govt. Industrial Tribunal  
(No. 2) Dhanbad.

[No. 2/104/70-LRII.]

**S.O. 2574.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta,

in the industrial dispute between the employers in relation to the management of Modhujore Colliery of Messrs Madhujore Coal Company Private Limited, Post Office Kajoragram, District Burdwan, and their workmen, which was received by the Central Government on the 5th September, 1972.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE No. 16 1972

## Parties:

Employers in relation to the management of,  
Madhujore Colliery of Messrs Madhujore Coal  
Company Private Limited,

AND

Their Workmen.

## PRESENT:

Sri S. N. Bagchi—Presiding Officer.

## APPEARANCE:

On behalf of Employers—Sri B. P. Dabral, Chief  
Personnel Officer.

On behalf of Workmen—Sri S. Mazumdar, Advocate.

STATE: West Bengal

INDUSTRY: Coal Mine

## AWARD

By Order No. L/1912/150/71-LRII, dated 6th March, 1972, the Government of India in the Ministry of Labour and Rehabilitation, Department of Labour and Employment, referred the following industrial dispute existing between the employers in relation to the management of Madhujore Colliery of Messrs Madhujore Coal Company Private Limited and their workmen, to this Tribunal, for adjudication, namely:

“Whether the action of the management of Madhujore Colliery of Messrs Madhujore Coal Company Private Limited, Post Office Kajoragram District Burdwan in dismissing Shri Mukhtar Singh, Overman, with effect from the 24th July, 1971, is justified? If not, to what relief is the workman entitled?”

2. Notices were issued upon the parties calling upon them to file their respective statement of cases. The union representing the workman filed its statement of case in which it is stated *inter-alia* that at the instance of the management the Police arrested the workman Mukhtar Singh on 16-1-71 on some false allegations and ultimately kept under detention under P.V. Act from 24-1-71. As a result thereof the said workman was not able to attend his duties in the colliery from 16-1-71. While confined in the jail the workman by Memo No. 377/AB, dated 9-2-71, through the Burdwan Jail authority informed the Manager of the colliery of his arrest and detention under P.V. Act. The management by its letter, dated 17-4-71, addressed to Mukhtar Singh at Burdwan District Jail required the workman to submit explanation for his absence in excess of ten days, vide Annexure A. At the earliest opportunity after receipt of the said letter the workman wrote a letter to the Manager of the Colliery on 2-5-71, explaining the circumstances alleged against him, vide Annexure B. The management did not reply to that letter and kept silent for a long time. Mukhtar Singh moved the Hon'ble High Court against his illegal and wrongful detention under the P.V. Act and under the orders of the High Court he was released from the District Jail, Burdwan on 2nd July, 1971. Immediately after his release Mukhtar Singh came to the colliery and reported for duty on 3rd July, 1971. But the manager of the Colliery did not only refuse him employment but also abused him in filthy language, threatened him with violence and forcibly removed him from the colliery with the help of some armed men. On that very day the workman by a letter lodged a complaint to the Officer-in-charge,

Ondal Police Station with a request to take steps against the culprits so that his life and service could be saved. By his letter dated 7th July, 1971 addressed to the Manager of the colliery Mukhtar Singh requested the manager to allow him to join his duties. The Manager did not give any reply to that letter. The workman received on 9th August, 1971, a letter dated 24th July, 1971, sent to him per registered post from the management wherefrom Mukhtar Singh came to know that he had been dismissed by the said letter, Annexure C. Receiving the letter the workman again sent a letter dated 8th September, 1971 requesting the management to allow him to resume his duties and also soliciting the management to give him information within seven days from the date of receipt of the letter. The management did not reply to the workman's letter. The workman then informed the union about the situation and thereupon the union took up the cause of the workman and by its letter, dated 21st September, 1971, addressed to the Manager of the colliery demanded reinstatement of Mukhtar Singh. The manager did not concede to the demand and in consequence the union placed the dispute with the Assistant Labour Commissioner (Central), Raniganj for his intervention. The Assistant Labour Commissioner took up the dispute for conciliation but failed. The union contends that the management dismissed the workman in the colourable exercise of powers. Show cause notice to the workman sent at Burdwan District Jail by the management was mala fide since the management did know that Mukhtar Singh was in detention under P.V. Act. No domestic enquiry was held in presence of the workman and he was not given any opportunity to defend himself. If the management held any enquiry in absence of the workman, it had been with deliberate object of depriving him of the opportunity of defending himself as the management knew that the workman was under detention and it was not physically possible for him to attend such enquiry. The union contends that the management in dismissing Mukhtar Singh acted unjustly, unfairly, mala fide, against the principles of natural justice, with ulterior motive and for extraneous consideration by way of victimisation. The union prays for an award declaring the dismissal of Mukhtar Singh with effect from 24th July, 1971 as unjust, directing the company to reinstate Mukhtar Singh to his post and to pay him all wages, allowances and other dues for the period of his wrongful non-employment.

3. The employer in its written statement asserted that the workman did not raise a dispute in the matter with the employer and as such the reference is bad in law. The dispute being an individual dispute lacks the ingredients to convert into an industrial dispute. The dispute has not been backed by a substantial number of workmen under the establishment and is thus not an industrial dispute. The union is put to a strict proof of their having had a mandate in the matter of raising this dispute. The management came to know that the workman had been arrested by the Police on 16th January, 1971 and was detained under P.V. Act. This was confirmed by the workman himself in his letter, dated 1st February, 1971, written from the jail custody. The management had nothing to do with the arrest of the workman. The workman's detention was under the P.V. Act wherein the management could have no hand. When for quite some time the workman did not report for work, the management issued a chargesheet on 17th April, 1971, at his jail address as well as at his home address asking him to show cause why action should not be taken against him for absence for more than ten days without satisfactory cause. The memo was posted on 21st April, 1971 and received by the workman on 24th April, 1971. By his letter dated 2nd May, 1971, written from the jail the workman stated that he had already informed the management that he was under detention under the P.V. Act and referred the number of the order under which he had been detained. The workman did not however answer the charge that means his unexplained absence for more than

ten days. By a letter, dated 28th June/5th July, 1971 the management brought to the notice of the workman that he had been given an opportunity to explain whether the absence was for a satisfactory cause or not and that for his detention under P.V. Act he did not show a satisfactory reason. An enquiry into the matter was fixed on 12th July 1971 with previous information to the workman. While the letter, dated 28th June/5th July, 1971, had been issued, the management came to know about the release of the workman from detention. So a copy of the letter addressed to the workman at his jail address was also sent to his two other addresses where the workman could possibly be found. A copy of the said letter was also handed over to Shri Rajkishore Singh, brother of the workman on 10th July, 1971, with a request that he may hand that over to the workman. The workman did not attend the enquiry held on 12th July, 1971 so the enquiry was held ex-parte. It was proved in the enquiry that the workman had been absenting himself since 16th January, 1971 and that his detention in the jail by the Government had not been at the instance of the management. The said detention not having been deemed as a satisfactory cause for absence the charge against him was proved and the workman was dismissed by the Manager after approval of the agent had been sought for and received the action of the management in dismissing the workman was neither vindictive nor arbitrary. It was in accordance with the provisions of the Standing Order of the company and in consonance with the law of the land. The workman did not pray for joining in his duty on 3rd July, 1971 or on any date thereafter nor did he see any officer of the management. The workman was dismissed for proved misconduct since the workman failed to show any satisfactory cause for his absence. There was an additional written statement by the employer filed on 17th July, 1972 which needs no elaborate discussion. There was also a rejoinder dated 17th July, 1972 filed by the employer against the written statement of the union representing the workman which also needs no discussion.

4. The union's rejoinder to the written statement of the employer dated 1st April, 1972, actually presented before the tribunal on 20th July, 1972, which was ultimately placed on record for proper verification with a direction given to verify the written statement according to law. To that written statement the union filed a rejoinder on 20th July, 1972 and on 20th July a joint petition was filed both by the management and the General Secretary of the Union intimating the tribunal that the parties were discussing amicable settlement of the dispute and that an agreement in the matter had almost reached. Only a few minor points were yet to be settled and there was likelihood of the matter being settled to the satisfaction of both sides. So it was prayed both by the union and the management that a fortnight's time be given to the parties for settlement. So the rejoinder of the union dated 20th July, 1972, needs no discussion. The case had already been fixed for positive hearing on 27th July, 1972. On 27th July, 1972, the General Secretary of the union filed an application stating that the parties to the dispute had been negotiating a settlement but that it had not been materialised and the workman had been lying ill and had been medically advised to take complete rest for a fortnight from 26th July, 1972. In support of that application a medical certificate was attached signed by one Dr. N. N. Gupta, L.M.F. The medical certificate did not bear either the signature or the thumb impression of the person whom the medical officer purported to have had examined and to whose illness he had certified. The medical certificate was, dated 26th July, 1972. The doctor stated in the certificate that the workman Mukhtar Singh had been (is) suffering from Infective Jaundice with Vertigo and was under his treatment from 21st July, 1972. The certificate further states that the workman is too weak and had been advised to take complete rest for a



tright or more. For what it was worth, the application was allowed and the case was adjourned to 11th August, 1972.

5. On 11th August, 1972, an application was filed by Mr. Roy, Advocate for the union. In the application it was stated that Mukhtar Singh, the dismissed workman, was lying ill and not available and had been medically advised complete rest for a month or more. In support of the application, a medical certificate issued by the same doctor who had issued the earlier certificate was attached. The certificate is dated 10th August, 1972. The doctor states in the certificate that Mukhtar Singh is suffering from Inactive Jaundice with Vertigo and is still under his treatment from 21st July, 1972 and had been advised to take complete rest for a month or more. For what the certificate was worth, the tribunal again adjourned the case for hearing on 28th August, 1972.

6. On 28th August, 1972, the learned Advocate appearing for the union filed a similar application for adjournment of the hearing on the ground of illness of Mukhtar Singh, the workman and in support of the application a certificate granted by the same doctor who had granted the two earlier certificates was filed. It is dated 27th August, 1972. In this certificate it is stated that Mukhtar Singh is still suffering from Jaundice with general weakness and Dysnia (heart trouble) and is under the treatment of the doctor since 21st July, 1972. He has been advised to take perfect rest till recovery. The three certificates did not bear the signature of the person said to be Mukhtar Singh or his left thumb impression whom the doctor certified to be ill, with identification mark of the person whom he had allegedly examined. The three certificates are self-contradictory. I do not consider the genuineness of the matter included in the certificates in the background of the steps taken from 10th May, 1972, till the date by the parties particularly the Union. The Union's petition to this tribunal filed on 10th May, 1972, states that the workman had been away at his native village for a long time and all the important documents were lying with him. He was asked to come to Asansol but he came a little bit. For the management it was submitted that the plea of illness was not genuine and that two warrants of arrest issued against the workman had not been executed until the time Sri Dabral for the management made the submissions and that the workman concerned had not surrendered to the warrants before the Subdivisional Judicial Magistrate, Durgapur. When he was asked to substantiate his statement, he submitted that he would file certified copies of the warrants and the report of the non-surrender of the workman in obedience of the two warrants issued against him for his arrest. The learned Advocate appearing for the union submitted that he had no further instruction. The plea of illness, therefore, is a clear subterfuge. I, therefore, rejected the application for adjournment as asked for by the union since it appeared to me that to avoid arrest the workman had taken a subterfuge of his feigned illness. The medical certificates themselves are self-contradictory, and do not per se show that the doctor had examined any man of the name of Mukhtar Singh, bearing his signature and identification mark thereon of the address, as given in the record. So, I could not rely on any of the certificates indicating a whit of the genuineness of the illness of the workman concerned. The learned advocate appearing for the union submitted that he had no further instruction to proceed with the case. But he orally submitted further that for the ends of justice a week's time could be allowed. This prayer for a week's time is again contradicting the last medical certificate granted by the medical practitioner who recommended rest of the workman till recovery that means till an indefinite date. So, I did not find it just and equitable to put a premium to such a prayer or adjournment on unsubstantial and unreliable grounds.

7. As there is none to represent the union which has espoused the cause of the workman concerned, I consider that there is no dispute in regard to the matter referred to for adjudication by this tribunal. I accordingly render a 'no dispute' award.

This is my award.

S. N. BAGCHI,  
Presiding Officer.

Dated, August 29, 1972.

[No. L/19012/150/71-LRII.]

S.O. 2575.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the management of Madhuband Colliery belonging to Messrs Oriental Coal Company Limited, Post Office Nudkhurkee, District Dhanbad, and their workmen, which was received by the Central Government on the 2nd September, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. 3, DHANBAD.

REFERENCE No. 40 of 1970

PRESENT:

Shri B. S. Tripathi.—Presiding Officer.

PARTIES:

Employers in relation to Madhuband Colliery, of  
M/s. Oriental Coal Co., Ltd.

AND

Their Workmen—represented by Bihar Colliery  
Kamgar Union, Village—Sijua, P.O. Karma-  
tand, Dist.—Dhanbad.

APPEARANCES:

For Employers.—Sri S. S. Kapoor, Advocate, Sri  
J. N. P. Sahi, Labour and Law Adviser, Bharat  
Coking Coal Ltd.—added as a party vide order  
No. 9 dated 23rd March, 1972.

For Workmen.—Sri J. D. Lall, Vice-President, Bihar  
Colliery Kamgar Union.

INDUSTRY: Coal

STATE: Bihar.

Dhanbad, the 28th August, 1972

AWARD

The present reference arises out of order No. 2/27/70-LRII dated the 18th August, 1970 of the Central Government in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) under Section 10(1)(d) of the Industrial Disputes Act, 1947 in relation to an industrial dispute between the parties, mentioned above, with respect to matters specified in the schedule of reference which is extracted below—

“Whether the action of the Management of Madhuband Colliery belonging to Oriental Coal Company Limited, dismissing Sarvashri Grijia Gope, Lokenath Gope and Ramnandan Mahato, Miners with effect from the 11th August, 1969, was justified? If not, to what relief are they entitled?”

2. The parties have filed their respective written statements. I do not however consider necessary to mention here respective cases, as in the meantime the concerned parties settled the dispute out of Court amicably. They have filed a Memorandum of Settlement duly signed by their representatives who verified the same before me and prayed for making award in terms of the settlement.



3. I have carefully perused and considered the terms of settlement in the light of the reference and the cases of the parties and I find that the terms are quite fair, just and equitable. There is no reason why an award shall not be made in terms and conditions laid down in the Memorandum of Settlement and I make award accordingly. The Memorandum of Settlement shall form part of the Award and is marked Annexure 'A' thereof.

4. Let the Award be submitted to the Central Government under Section 15 of Industrial Disputes Act, 1947.

(Sd.) B. S. TRIPATHI,  
Presiding Officer,  
Central Government Industrial Tribunal-  
Cum-Labour Court (No. 3)  
Dhanbad.

#### ANNEXURE 'A'

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. III. AT DHANBAD.

In the matter of:

REFERENCE No. 40 OF 1970

#### PARTIES:

Employers in relation to Madhuband Colliery of  
M/s. Oriental Coal Co. Ltd.

AND

Their Workmen.

#### Memorandum of Settlement

All the parties in the present proceeding have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

1. That S/Sri Girja Gope and Ramandan Mahto (Miners) two workmen concerned in the present Reference shall be reinstated by the management of Madhuband Colliery of M/s. Oriental Coal Co. Ltd., on and from 26th July, 1972 without any back wages and employed as miners/loaders.
2. That Sri Loknath Gope the third workmen concerned in the present reference is already employed in Kessurgarrah Colliery of this Group since several months past.
3. That the period intervening from the date of dismissal (which gave rise to the present Reference) till date of resumption of duty shall, for the purpose of continuity of services, be treated as leave without pay, but the workmen concerned will be eligible to proportionate leave or quarterly bonus provided they put in proportionate qualifying attendance during the remaining period of current year or current quarter, as the case may be.
4. In the event of failure of the aforesaid two workmen i.e., Girja Gope and Ramandan Mahto to report for work within a fortnight from 26th July, 1972 the workmen concerned shall have no right for re-employment etc., under this agreement.
5. The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.
6. The management agrees to pay Rs. 100 (Rupee one hundred) only as the cost to the Union

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this settlement and to give it Award in terms thereof.

For the Employer.

(Sd.) Illegible  
(Sd.) Illegible,  
Madhuband Colliery,  
M/s. Oriental Coal Co., Ltd.  
For Bharat Coking Coal Ltd.

For the Workmen

J. D. LALL,  
Vice Presiden  
B. C. K. Union  
J. N. P. SAHI,

Dated 25th July, 1972 Labour and Law Advise  
B. C. C. Ltd.

[No. 2/27/70-LRII.]

**S.O. 2576.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 1) Dhanbad, in the industrial dispute between the employers in relation to the management of Malkera Choitudih Colliery of Messrs. Tata Iron and Steel Company Limited, Post Office Malkeva, District Dhanbad and their workmen, which was received by the Central Government on the 30th August, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD.

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 89 OF 1971

#### PARTIES:

Employers in relation to the management of  
Malkera Choitudih Colliery of Messrs Tata  
Iron and Steel Company Limited, P.O. Malkera, (Dhanbad).

AND

Their Workmen.

#### PRESENT:

Shri A. C. Sen, Presiding Officer.

#### Appearances:

For the Employers.—Shri S. S. Mukherjee, Advocate.

For the Workmen.—Shri T. P. Chowdhury, Advocate.

State : Bihar.

Industry : Coal.

Dhanbad, dated the 23rd August, 1972

#### AWARD

1. The present reference arises out of Order No. L/2012/115/71-LRII dated New Delhi, the 15th December, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:—

"Whether the dismissal of Shri R. P. Singh, Grade-II Clerk with effect from the 16th December, 1970 by the management of Malkera Choitudih Colliery of Messrs Tata Iron and Steel Company Limited, Post Office Malkera (Dhanbad), is justified? If not, to what relief is the workmen concerned entitled?"

2. The workman have thus described the genesis of the present dispute. Shri R. P. Singh, a grade II clerk of the Malkera Colliery with long 12 years clean and meritorious record of service joined the Tata Collieries Workers' Union, leaving the membership of Colliery Mazdoor Sangh, a pet union of the company and took steps for the strengthening of his union as well as against the various acts of injustice done to the workmen, to the serious resentment of the company and the Colliery Mazdoor Sangh. The Company with a malafide motive of victimisation

sued a chargesheet dated 17th August 1970 against Sri R. P. Singh containing false and malicious charges. Sri R. P. Singh gave his reply to the same denying the allegations. The Company purposely refused to accept the explanation and held pretended enquiry to find Sri R. P. Singh guilty and dismissed him by way of victimisation for his trade union activities. As the workmen were aggrieved by the arbitrary dismissal of Sri R. P. Singh the union made a representation to the Company for his reinstatement with back wages. The union thereafter referred the matter to the Regional Labour Commissioner, Central and a Conciliation proceeding followed, which proved abortive. Thereafter the dispute was referred to this Tribunal under section 10 of the Industrial Disputes Act.

3. According to the workmen, the company procured the verdict of guilt from the Enquiry Officer. Their further case is that the enquiry was in violation of the principles of natural justice and perversity.

4. The charge against Sri R. P. Singh is that in an open meeting he said that the contractors of Malkera Colliery gave money and also supplied girls to the officers.

5. The workmen have categorically denied the utterances attributed to Sri R. P. Singh in the chargesheet. But, according to them, even if Sri R. P. Singh made those utterances he would not have been guilty of any misconduct. Their argument on this point as stated in para 9, is as follows: "The standing order is not applicable to a man's conduct outside or to anything said or done in regard to an Officer of a company in his personal or private capacity. To cite an instance... if an officer takes money or girl from contractor he does so in his private capacity and it is merely a coincidence that he also happens to be an officer of the company..... The speech, if damaging to anybody as a matter of defamation, the remedy was in Civil or Criminal law, for officer to take".

6. The case for the employers as made out in their written statement may be summarised as follows. A written report of the proceedings of the meeting held on 19th July, 1970 was submitted by Sri R. K. Sinha, the then Personnel Officer of the colliery who was deputed for the purpose. The contractors also submitted a joint petition dated 25th May 1970 mentioning therein the utterances made by Sri R. P. Singh in the above meeting. A thorough departmental enquiry was held on several dates in presence of Sri R. P. Singh, who was assisted by his co-worker P. K. Mishra. Sri R. P. Singh actively participated in the enquiry by cross-examining the management witnesses at length and also by examining his defence witnesses besides giving his own statement. The principles of natural justice were duly observed. The Enquiry Officer submitted his report dated 16th October, 1970 holding that the misconduct mentioned in the chargesheet had been established. The Chief Mining Engineer, carefully considered the evidence on record and as the misconduct mentioned in the chargesheet was very grave Sri R. P. Singh was dismissed by letter dated 11th December, 1970 with effect from 16th December, 1970.

7. In their rejoinder the workmen have denied that the principles of natural Justice were observed in the departmental enquiry. They have stated as follows in para 8 of the rejoinder: "As a matter of fact, Sri Singh... took part in the enquiry under protest in as much as the Enquiry Officer who had been appointed by the management was prejudiced to Sri R. P. Singh from before, so much so that in a previous departmental enquiry against Sri R. P. Singh... the self same Enquiry Officer held Sri Singh guilty of misconduct resulting in his dismissal but the management had to reinstate him when it could not be sustained". They have also pointed out that the Certified Standing Orders which define misconduct do not cover the alleged act.

8. First of all it is to be seen whether the management has succeeded in proving that Sri R. P. Singh said at the meeting that the contractors of Malkera Colliery gave money and also supplied girls to the officers. As many as four witnesses were examined by the management, viz. (1) Sri P. K. Sinha, Personnel Officer, (2) I. D. Dubey, Manager, (3) Ahmad Hussain, Contractor and (4) Jugan Khan, Mining Sirdar.

9. Sri P. K. Sinha appears to be the principal witness. I shall deal with his evidence after disposing of the three other witnesses. So far as Sri I. D. Dubey, Manager is concerned he has no personal knowledge as to what Sri R. P. Singh said at the meeting. His evidence is hearsay evidence and hence wholly irrelevant.

10. Shri Ahmad Hussain, Contractor appears to be a chance witness. It is not clear why he attended the meeting. He says in his examination-in-chief: "On 19th July, 1970 pamphlets were distributed that a meeting would be held on 19th July, 1970 at 9-30 a.m. near the Manager's bungalow. I had gone to hear the meeting". In reply to the question if he had read the pamphlet he answered: "I was in the canteen and I found pamphlets in the hands of workmen. Some of them were talking that Ram Pyare Babu (R. P. Singh) is arranging the meeting". He does not say that he read the pamphlet. He overheard the conversation between some workers and that is how he came to know about the meeting. It is difficult to believe that he attended the meeting simply over-hearing the conversation of some of the workers. It is in evidence that on 18th July, 1970 his car was stopped at the main gate about 4 P.M. He had to take permission from the Manager to his family members were stuck up for going out as they had come from Chhatabad site. The Manager then ordered his car to go. It is not clear how and when he entered the canteen on 19th July, 1970.

11. He, that is, Ahmad Hussain reached the meeting just when Sri R. P. Singh was giving speech. He left the meeting in disgust when R. P. Singh said that the Thikadars gave money and supplied girls to the officers. He heard the adverse remarks against the Manager, the doctor, the recognised union and the Welfare Officer. It is enough to point out that he could not have heard the remarks against the doctor and some of the remarks against the Welfare Officer had he left the meeting after hearing the remarks against the contractors. That will be evident from the report submitted by Sri P. K. Sinha Personnel Officer (Ext. A before the Enquiry Officer). He was asked to come to depose by the Personnel Officer, P. K. Sinha.

12. This witness, Ahmad Hussain, could not say who was the President of the Meeting. He did not remember the names of the important persons in the meeting. He came to depose before the Enquiry Officer without knowing the charge. He has not heard the name of the Tata Collieries Workers' Union; still he came to attend a meeting organised by that union. He only remembered the slang language used by Sri R. P. Singh. He heard many things but did not remember all. He cannot say how long he heard the speech of Sri R. P. Singh. He came to attend the meeting on Sunday from Chhatabad in a rickshaw. It is not clear why he was so eager to attend the meeting. It is in evidence that it drizzled during the meeting but he cannot tell how was the weather on the meeting day.

13. The facts stated above clearly show that he was nothing but a chance witness. Even if it be assumed that he was present at the meeting there is no doubt that he was tutored before giving evidence. He repeated only some of the slangs mentioned by the personnel officer in his deposition. He could not reproduce them all. He did not remember anything else.

14. He is also an interested witness. He donated Rs. 100/- in the Football Tournament in the name of Mr. I. D. Dubey, the Manager. His father purchased a car from Mr. Dubey for Rs. 6000/- and the sale deed was witnessed by him. A car was sold to the Asstt. Manager by the father or brother of the witness. He took the initiative in making a complaint in writing to the Manager against Sri R. P. Singh and he procured the signatures of the other contractors, who, did not attend the meeting. He obtained an order from the company to build a mosque, but he could not execute the order on account of the opposition of Sri R. P. Singh. His father was involved in a proceeding under section 107 Cr. P.C. because Sri R. P. Singh vehemently opposed the construction of the said mosque. Sri R. P. Singh, as Vice-President, Colliery Mazdoor Sangh, X Branch Malkera-Choitudih Colliery wrote to the Chief Labour Commissioner on 19th December, 1968 requesting him to compel this witness, Ahmed Hussain to provide certain workers mentioned in the letter with suitable work. Sri R. P. Singh, as Vice-President, Colliery Mazdoor Sangh wrote a letter dated 19th December, 1968 to the Chief Labour Commissioner drawing his attention to the fact that this witness and his father as contractors had not carried out the direction of the Labour Enforcement Officer regarding payment of lay-off benefits. Sri R. P. Singh also wrote a letter dated 2nd October, 1967 to the Manager, Malkera Colliery to complain that the workers working under contractors had not been paid their C. B. A. Bonus for June Quarter, 1967. He further complained that the contractors had not deposited the amount of Coal Mines Provident Fund. The witness was one of the contractors of the colliery. When he was asked whether he remembered when he made application to the management against Sri R. P. Singh he replied: "I do not remember". He did not say that he had made no application to the management against Sri R. P. Singh.

15. From the facts stated in para 14, it can reasonably be inferred that he was interested in procuring the conviction of Sri R. P. Singh. I now propose to consider the evidence given by the fourth witness, Sri Juggan Khan on behalf of the management. He left the meeting in the midst of Sri R. P. Singh's speech. It seems he listened only to the slang insinuation against the officers of the Welfare Department, against the doctor and against the Thikadars. He came to depose at the instance of Sri P. K. Sinha, the Personnel Officer. He even did not know against whom he was giving evidence. He could not remember the names of the persons present at the meeting except the names of Sri R. P. Singh and Sri D. K. Sinha. According to him the car of Sri P. K. Sinha was 40 to 50 ft. away from the Manager's gate; whereas according to Sri P. K. Sinha he was near the Manager's bungalow gate. Some of the utterances ascribed by him to Sri Anil Sarkar, the first speaker in the meeting are not to be found in the report of Sri P. K. Sinha. He appears to have invented them. He could not say a word about the main subject on which the first speaker spoke. It was from the pamphlet that he knew that Sri R. P. Singh convened the meeting, but the pamphlet nowhere mentions the name of Sri R. P. Singh. It is clear that he did not read the pamphlet though he asserted that he had read it. He said that he remained in the meeting till about 12 or 12-13 o'clock. Earlier he had said that he left in the midst of Sri R. P. Singh's speech. There is evidence that Sri R. P. Singh's speech ended much before that time. He says that Sri R. P. Singh spoke for about 30 to 45 minutes. But if he left the meeting in the midst of Sri R. P. Singh's speech it was not possible for him to know how long Sri R. P. Singh spoke. He cannot say who presided over the meeting. It is in evidence that several clerks of the colliery were present at the meeting, but this witness does not remember to have seen them. From the facts stated above it can reasonably be inferred that he was not at all present in the meeting.

16. Even if it be assumed that he was present at the meeting there is no manner of doubt that he was tutored before deposing at the enquiry. Like the third witness, Sri Ahmad Hussain he mentioned only some of the slang insinuations mentioned earlier by Sri P. K. Sinha, the first witness. He did not mention the other points dealt with by Sri R. P. Singh. Again he is also an interested witness. He has been associated with the Colliery Mazdoor Sangh for 10 years and he was also a member of the executive committee. He no doubt says that in 1970 he did not become member of any union, but he does not say that he resigned his membership of that union. It is in evidence that the relation between the Colliery Mazdoor Sangh and the Tata Collieries Workers' Union is very bitter. The latter union was started recently as the rival of the former union, recognised by the company. The speakers at the meeting severely criticised the activities of the Colliery Mazdoor Sangh. This witness appears to be friendly with the Manager, Under Manager and Assistant Manager of the company, whom he invited to tea about a year back.

17. I have sufficient reason for not relying upon the evidence of Sri Ahmad Hussain and Sri Juggan Khan. Let me now deal with the evidence of Sri P. K. Sinha, witness No. 1 for the management before the Enquiry Officer. He was advised by the Manager to attend the meeting and submit a report. He submitted a written report, which is the foundation of the chargesheet. He is the complainant in the departmental proceeding. He conducted the prosecution and cross-examined the witnesses produced by the workmen. As he was the prosecutor he should not have been an witness at the same time. He was naturally anxious to procure the conviction of Sri R. P. Singh. Instead of confining himself to the actual charge he said many other things only to create prejudice against Sri R. P. Singh. According to the charge-sheet Sri R. P. Singh said that the contractors of Malkera Colliery gave money and also supplied girls to officers. The charge may mean that the contractors of Malkera Colliery gave money and also supplied girls on a particular occasion or it may mean that the contractors of Malkera Colliery habitually give money and also supply girls to the officers. The charge has been framed in the indirect narration; it should have been framed in the direct narration giving the exact words used by Sri R. P. Singh. This witness in his evidence has used direct narration. According to his deposition Sri R. P. Singh uttered these words in Hindi: "Malkera Ke Thikedar Company Ke Officeron Ko Chokri supply Karte Hai Aur Paisa Dete Hai, Maza Lootne Ke Liye". This means: "The Thikadars of Malkera supply girls to the officers of the company and give money for indulging in revelry". His version does not tally with the version of the charge-sheet. According to him the Thikadars habitually supply girls and give money, not that they did so on any particular occasion. The charge-sheet speaks of "contractors of Malkera Colliery" whereas he speaks of "the contractors of Malkera" omitting the word "colliery". Contractors of Malkera and the contractors of Malkera Colliery do not mean the same thing. The contractors of Malkera Colliery may be outside contractors, may not be the contractors of Malkera at all. Then again this witness embellishes his deposition by adding the words "of the company" after the word "officers" whereas in the charge-sheet the words "of the company" are not there after the word "officers". He has added the words "Maza Loot Ne Ke Liye" (for indulging in revelry) in his deposition, but they are not to be found in the charge sheet.

18. The officers cannot be identified unless the qualifying words "of the company" are added. This witness attributed to Sri R. P. Singh many more damaging remarks which are not to be found in the charge sheet. This he did in order to create prejudice against Sri R. P. Singh. He should not have done so being himself the prosecutor. The Enquiry Officer too should not have permitted him to do so. In his

enthusiasm to procure a conviction he as a witness transgressed the limits.

19. Sri R. P. Singh spoke for nearly 45 minutes. This witness recorded only some important things which he could recapitulate. He did not write the report at the meeting. He simply noted down the important points. The report was prepared at night. He left out the points which did not appear to him to be important. Hence his idea was to prepare an incriminating report against Sri R. P. Singh. He destroyed the paper in which the points were jotted down. He submitted his report to the Manager in English. Several utterances alleged to have been made by Sri R. P. Singh against the doctor, the Welfare Officer, the Assistant Manager etc., have been quoted in Hindi in the direct narration; but the impugned allegation as to the contractors giving money and supplying girls has been put in the indirect narration in English and not in Hindi. But at the time of deposition he gave the Hindi version even though the paper in which points were jotted in Hindi had been destroyed earlier. It is unlikely that he was in a position to quote the exact words used by Sri R. P. Singh on the point raised in the chargesheet. It is not possible to ascertain the effect of an utterance unless it is quoted *verbatim*. Hence not much importance can be attached to the evidence given by this witness, namely, Sri K. P. Sinha.

20. It is this witness who reported to the Manager that a meeting of workers was going to be held on 19-7-1970. Then the Manager advised him to attend the meeting and submit report. He attended the meeting on the advice of the Manager. Had it been his duty as Personnel Officer to attend all meetings of union, as suggested by the Manager in his deposition, he would not have waited for the advice of the Manager to attend the meeting. He would have done so of his own accord. The meeting took place on a Sunday—a rest day and outside the colliery premises. By attending the meeting on the advice of the Manager he really played the part of an informer and I am not inclined to place much reliance on the report and evidence of an informer.

21. There were proceedings under section 107 Cr. P.C. against this witness as well as Sri R. P. Singh. In the first party there were 8 persons including Sri R. P. Singh and in the second party too there were 8 persons including the Manager and this witness. Proceedings under section 107 Cr. P.C. were drawn up on account of some communal disturbance at Choitudih regarding the building of a mosque. Out of 8 persons in the first party all except Sri R. P. Singh came to a compromise. The members of the 2nd party wanted to build the mosque whereas the members of the 1st party including Sri R. P. Singh opposed. The proceedings were pending at the time of the enquiry. This witness naturally had reason to be dissatisfied with Sri R. P. Singh for not joining the compromise.

22. It may be noted that the witness No. 1 for Sri R. P. Singh before the Enquiry Officer was not asked in cross-examination whether Sri R. P. Singh uttered the words attributed to him in the chargesheet. The witness No. 2 also was not asked anything about Sri R. P. Singh's saying that the contractors gave money and supplied girls to officers. It is the Enquiry Officer who put that question to witness No. 2. In my opinion he should not have done so, as the question was put not by way of clarification but by way of eliciting information against Sri R. P. Singh. Other witnesses too were not asked anything in cross-examination about the actual charge. The fourth witness, Sri Jokhan Chamar categorically stated that he did not hear Sri R. P. Singh saying that the contractors supply girls to officers and bribe them, still no question was put to him in cross-examination on this point. This want of cross-examination on the only material issue shows that the prosecution was not sure about its case.

23. For the reasons stated above I am of opinion that the management has not been able to prove the charge against Sri R. P. Singh, that is to say, has failed to prove that Sri R. P. Singh said at the meeting that the contractors of Malkera Colliery gave money and also supplied girls to the officers. This finding is enough to dispose of the matter. But I am inclined to consider the question of victimisation raised by the workmen. Sri R. P. Singh took a leading part in forming a union in opposition to the union recognised by the management. He is one of the persons who opposed the construction of the mosque at Choitudih and this led to the initiation of proceedings under section 107 Cr. P.C. involving the Manager and the Personnel Officer of the company. Some of the approved contractors of the company were annoyed by the activities of Sri R. P. Singh. The complaint made by the contractors was obviously inspired. None of the contractors attended the meeting, not even Ahmad Hussain who deposed before the Enquiry Officer. They must have been inspired by the management in making the complaint. Sri Ahmad Hussain, though not an employee, was cited as a witness by the management. Ordinarily, in a domestic enquiry outsiders are not allowed to depose, because an industrial dispute is solely between the management and its employees. Sri R. P. Singh's objection to Sri Parvatkar's conducting the enquiry was overruled. Sri R. P. Singh participated under protest. Not only should justice be done, the chargesheeted man must feel that justice is being done. The publicity van of Sri R. P. Singh was stopped at the check post and was not allowed to enter the premises of the colliery. The Manager knew nothing about the meeting. The Personnel Officer informed him about the meeting, who thereupon advised the Personnel Officer to attend the meeting and send a report though it was public meeting to be held outside the premises of the colliery. The management tutored two of the witnesses in its anxiety to procure a conviction. The Personnel Officer at the enquiry was allowed to say things which were not relevant to the only issue raised by the chargesheet. On one or two occasions the Enquiry Officer himself played the role of a prosecutor by putting questions to the witnesses of the chargesheeted workmen, not for clarification but for eliciting information on the point in issue. The complaint of the contractors was marked as an exhibit even though it was not proved by any body. The Enquiry Officer took it as corroborative evidence even though Sri R. P. Singh had no opportunity to cross-examine the contractors except Sri Ahmad Hussain. To say the least that complaint was nothing but hearsay evidence. The witnesses of the chargesheeted workman was disbelieved on the ground that they belonged to the same union as Sri R. P. Singh, but the reason is not at all convincing.

24. All the facts narrated in the preceding paragraph inevitably lead to the conclusion that the disciplinary action against Sri R. P. Singh, from beginning to end amounted to victimisation for trade union activities. In this connection reference may be made to the decision of the Supreme Court in *Agnani (W.M.) versus Badri Das and others*, 1963 (1) L.L.J. 684. There the chargesheeted workman took sides of another workman and had a quarrel with the lessee of the provision store run for the benefit of the employees. The incident took place at the shop in the staff colony constructed by the employer. On a complaint from certain residents of the staff colony the management by a resolution appointed an Enquiry Committee to conduct an enquiry against the chargesheeted workman. One of the defences taken was victimisation. This question was not finally decided, but the Supreme Court observed as follows on the question of victimisation: "It is true that a large number of employees complained to the respondents on 18 November 1959, and that in fact was the justification for the resolution passed by the respondents; but it is remarkable that these persons who complained were not present at the scene when the incident took place and their complaint is obviously based on information received by them later. One has

merely to read the language of this complaint to appreciate the comment made by the appellant that this complaint is inspired..... This extravagant language used in this complaint tends to defeat rather than help the purpose which it was intended to serve. It is also significant that though the incident took place on 16 November 1959, and a complaint about it was received on 18 November 1959, no action was taken until 2 January 1960; and that *prima facie* lends some support to the appellant's case that what really annoyed the respondents was the fact that the appellant had started another union and got it registered in December 1959. In this case also the complaint was made by contractors who were not present at the meeting. There was considerable delay in taking action by the management. It may, therefore, be inferred that what really annoyed the management was not the speech on 19-7-1970 but that he started a separate union.

25. Before parting with this case I shall like to discuss the legal position on the assumption that Sri R. P. Singh did say at the meeting that the contractors of Malkera Colliery gave money and also supplied girls to the officers. According to the Management the above utterances constitute an act subversive of discipline. Sri R. P. Singh delivered a speech in a public meeting held outside the premises of the colliery. According to the report of the Personnel Officer, Sri P. K. Sinha, between 150 and 200 persons gathered including dependents of employees and villagers. There is nothing on record to show how many of those were the workmen of the company. If majority of the persons present were non-workmen, then the impugned utterances could not have been subversive of discipline. These utterances primarily deal with some secret dealings between the contractors and officers. They scarcely affect the business of the company. Again, the impugned utterances are very vague. It is difficult to identify the officers in the absence of the words "of the Company". Such vague utterances, made in a public meeting on a rest day, are not likely to impair discipline. Further, if it be assumed that majority of the audience consisted of workmen of the company, can it be said that the impugned utterances are likely to be subversive of discipline? It is a matter of common knowledge that the relation between capital and labour, between management and workmen is not at all happy. One of the objects of the Industrial Disputes Act is to mitigate the evil consequences of strained relation between employers and employees. It seeks to bring about industrial peace. Slogans are being daily uttered by workmen against the employers on one pretext or another. Many harsh things are said about the employers. They are called exploiters, looters, blood suckers. The workmen frequently complain to the Regional Labour Commissioner about the alleged vagaries and high handed behaviour of the Manager and other officers. They regard it as part of their legitimate trade union activities. They often demonstrate in front of the Manager's office. If these things do not undermine discipline there is no reason to think that the impugned utterances in the present case in a speech of about 45 minutes will undermine discipline. If disciplinary actions are taken on such utterances, trade union activities may be thwarted, whereas the policy of the Industrial Disputes Act is to promote trade unionism.

26. Whether certain utterances are likely to undermine discipline is primarily a question of opinion. Such a question should not ordinarily be referred to a domestic tribunal. On the one hand, there is the freedom of speech, on the other hand there is the question of maintaining discipline in the industrial concern. A citizen in a public meeting is free to say what he likes, unless the speech is seditious or defamatory. In the present case there is no question of sedition. The impugned utterances attributed to Sri R. P. Singh is not defamatory because it does not fall within the mischief of section 499 Indian Penal

Code which defines defamation. There is no defamation unless something derogatory is said against a person or persons whose identity can be established. The words "officers" or "contractors of Malkera Colliery" do not refer to identifiable persons. In this connection reference may be made to the decision of the Patna High Court in Government Advocate, B & O Vs. Gopabandhu Das, (1922) Patna 414. There the accused published in a paper an account of an outrage on a woman alleged to have been perpetrated by two constables out of four stationed at a Police Station. It was held that in the absence of proof that was intended to charge any particular and identifiable constable with the alleged offence the accused could not be convicted. A person should not be penalised even departmentally for saying something which is neither defamatory nor seditious. A man ought to be punished, if at all, for what he does, not for what he says, especially in a public meeting. If a workman in a public meeting says that all employers are exploiters or that the officers of a particular company are corrupt, is he to be dismissed on the plea that his speech is subversive of discipline. The Enquiry Officer has said that the charge sheeted workman has every right to criticise the management's policy, who is to judge whether the workman has exceeded the right or not? Such a question cannot be decided by a domestic tribunal.

27. Let us look at the problem from another point of view. Suppose in the present case the charge-sheeted workman had said that he was prepared to prove that the allegations against the contractors and officers were true. If he could prove that the allegations were true, there could not have been any question of discipline being undermined. But a domestic tribunal is not competent to deal with such matters; hence the charge-sheeted workman could not have been given the opportunity of establishing the allegations made against the contractors and the officers. Such a situation can be dealt with only by a competent court of law, if complaint is made by the persons aggrieved or by the state. In the present case the entire domestic proceeding was misconceived.

28. Points discussed in paras 25 to 27 clearly show that there was no scope for taking disciplinary action against the chargesheeted workman even if he uttered the words attributed to him by the charge sheet.

29. It appears from what has been stated above that the management has not been able to prove that Sri R. P. Singh uttered the words attributed to him in the charge sheet. I have also found that Sri R. P. Singh was victimised for his trade union activities. I have also shown that even if Sri R. P. Singh uttered the words attributed to him by the charge sheet, the management should not have initiated departmental proceedings against him. I accordingly set aside the order of dismissal.

30. I, therefore, make the following award. The management was not justified in terminating the services of Sri R. P. Singh with effect from the 16th of December, 1970. The order of dismissal is hereby set aside, and Sri R. P. Singh shall be reinstated with back wages and continuity of service.

Sd/- A. C. SEN,  
Presiding Officer.

[No. L/2012/115/71-LRIL]

New Delhi, the 14th September 1972

S.O. 2577.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the management of Pansuli Colliery of Messrs Krishna Valley Selected Coal Company, Post Office Nutandanga,

District Burdwan and their workmen, which was received by the Central Government on the 12th September, 1972.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

REFERENCE NO. 97 OF 1971

## PARTIES:

Employers in relation to the management of Pansuli Colliery of Messrs Krishna Valley Selected Coal Company.

AND

Their workmen.

## PRESENT:

Sri S. N. Bagchi—Presiding Officer.

## APPEARANCES:

On behalf of Employers—Sri Nikhilesh Das Advocate.  
On behalf of Workmen—Absent

STATE: West Bengal

INDUSTRY: Coal Mine.

## AWARD

By Order No. L-1912/78/71-LR. II, dated 19th August, 1971, the Government of India, Ministry of Labour and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the management of Pansuli Colliery of Messrs Krishna Valley Selected Coal Company and their workmen, to this Tribunal, for adjudication, namely:

"Whether the stoppage of the working of Pansuli Colliery of Messrs Krishna Valley Selected Coal Company, Post Office Nutandanga, District Burdwan on and from 5th May, 1971 amounts to lockout and whether its continued stoppage from the said date is justified? In either case, to what relief are the workmen entitled?"

2. Notice of the reference was issued on 24th August, 1971 on both the management and the union. The management ultimately filed its written statement on 22nd November, 1971. From 22nd November, 1971 to 16th August, 1972 the union did not turn up. On 16th August, 1972 this tribunal fixed 4th September, 1972 for peremptory hearing of the case and date fixed for peremptory hearing was notified to the union under registered post which was received by the union on or about 23rd August 1972. The union did not turn up. The management turned up on the date of hearing. As the union did not turn up, I had no other alternative but to presume that there is no dispute as that referred to in the Schedule to the Order of reference existing at present.

3. I, therefore, render a 'no dispute' award in the matter.

(Sd.) S. N. BAGCHI.

Dated September 5, 1972.

Presiding Officer.

[No. L/19012/78/71-LR.II.]

**S.O. 2578.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad. In the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited, Post Office Kothagudem Collieries, (Andhra Pradesh) and their workmen, which was received by the Central Government on the 2nd September, 1972.

# BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL). AT HYDERABAD.

## PRESENT:

Sri P. S. Ananth, B.Sc., B.L. Chairman, Industrial Tribunal (C), Andhra Pradesh, Hyderabad.

INDUSTRIAL DISPUTE NO. 8 OF 1972

## BETWEEN

Workmen of Singareni Collieries Company Limited, P.O. Kothagudem Collieries.

## AND

Management of Singareni Collieries Company Limited, P.O. Kothagudem Collieries.

## APPEARANCES:

Sri M. Komaraiah, General Secretary, S.C. Workers' Union, for workmen.

Sri V. Gopal Shastry, Asst. Personnel Officer, S.C. Co. Ltd., for management.

## AWARD

The Government of India, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) by its order No. L/2112/44/71-LR.II, dated 7th March, 1972 referred the following dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act) for adjudication to this Tribunal, namely:—

"1. Whether the action of the Management of Singareni Collieries Company Limited, Kothagudem is justified in terminating the services of Sarvasri K. Sambasive Rao and M. Rajendra Prasad, Forest Clerks of Main Stores? If not, to what relief are they entitled?"

2. Whether the action of the management in not fixing Sarvasri K. Sambasive Rao and M. Rajendra Prasad in the grade of Rs. 205—325 with retrospective effect is justified? If not, to what relief are they entitled?"

This reference was taken on file as Industrial Dispute No. 8 of 1972 and notices were issued to the parties. For the purpose of convenience, the claimants who are the workmen in Singareni Collieries Company Limited, Kothagudem are referred to as the petitioners and the Singareni Collieries Company Limited, Kothagudem is referred to as the respondent in the course of this award.

2. The petitioners are represented by the Singareni Collieries Workers Union Kothagudem and the Central Secretary of the said Union filed a claims statement contending as follows: As regards item I of the schedule to the reference the respondent has no right to terminate the services of those petitioners on the plea that they are temporary workmen. They were appointed as Forest Clerks in Main Stores for a period of six months by letter dated 21st October, 1966 and they were permitted to continue in Company's service for a further period of one year with effect from 21st April, 1967. Their services were terminated by the Central Manager by his letter dated 9th March, 1968. They were again appointed under letter dated 10th February, 1969 for a period of six months and they were permitted to continue in the company's service for a further period of six months with effect from 10th August, 1969. They were again permitted to continue in the Company's service for a further period of six months with effect from 10th February, 1970. It is mentioned in the letter dated 10th February, 1970 that their services should stand terminated as on 9th August, 1970. They were allowed to continue in the company's service from 10th August, 1970 upto date without any break and their wages have been paid. Since they have become permanent as per the Standing Orders of the company as they were continuously working from 1967 to 1970 and from 10th August, 1970 upto date. The respondent knowingly allowed the workmen to continue in company's service for a indefinite period. So the respondent has no right



to terminate their services as they were continuously working. So far as item II of the schedule to the reference is concerned all the clerks in the Singareni Collieries have been fixed in the grade of Rs. 205—325 and only few workmen who were working as area clerks, chit clerks and pit issuers have been only placed in the grade of Rs. 180—205. Even the said clerks have been fixed in the grade of Rs. 48—100 which is the pre-wage Board and the equivalent grade as per Wage Board is Rs. 205—325. They are full fledged clerks and so they are entitled to the grade of Rs. 205—325 with retrospective effect.

3. The respondent filed a reply statement contending as follows: K. Sambasiva Rao and M. Rajendra Prasad were appointed purely on temporary basis as Forest Clerks to work under the Departmental staff of the Government. While the company has been obtaining its timber requirements through contractors, some coupes have been taken over in auction from the Government as an experimental measure and the services of the departmental staff of the Forest Department were lent to the Company to work out the coupes. The forest clerks concerned were appointed in connection with this work to work under the departmental staff of the forest Department. The forest coupes for which work these individuals were appointed are situated far away from the mines and mining operations and their duties have no connection whatsoever with mining operations. As such any dispute relating to these persons does not come under the purview of the Central Government and so the reference is bad in law. Since the work on which these two individuals were appointed were purely temporary, they were appointed for specific period and terminated as and when they were no longer required. As the number of coupes leased to the company were reduced, it was proposed to terminate the services of these two temporary forest clerks with effect from 31st October, 1971 by following the necessary formalities. However as some work still continued their services were further continued on temporary basis. So the reference is misconceived and should be rejected. So far as these two clerks are concerned their services stand terminated after the period of appointment and appointment does not give any right or claim for any job. A worker who is appointed on temporary basis for temporary work cannot claim for confirmation of the job unless the job itself is of a permanent nature. The appointment orders clearly show that they were appointed as forest clerks on temporary basis. When these two temporary clerks were no longer required their services were terminated in March/April, 1968. When there was resumption of work after renewal of lease of forest coupes they were appointed afresh from February, 1969. Even though it was mentioned in the appointment order that their services stand terminated in August, 1970 they were continued in the same job for the same work which continued so long. These two clerks who were appointed on purely temporary basis cannot claim for confirmation or permanency. So far as the grade of the two individuals is concerned it was fixed taking into consideration the nature of the work carried out by them. They accepted appointment orders. The question was raised for the first time when it was proposed to terminate their services and the union came forward with the strike notice. These clerks and company's rolls have been fixed in appropriate grades as per the job nomenclature. It is true that these two persons were originally appointed in the Pre-Wage Board grade of Rs. 48—100 but when they were appointed again in February, 1969 they were allotted the grade of Rs. 180—265, that is, Grade III having regard to the nature of the work even though it is not necessary that they should be placed in a particular grade.

4. This matter was taken up for enquiry and M.W. 1 was examined and Exs. W. 1 to W.7 were marked on the side of the petitioner. When the matter was posted to 25th August, 1972 for further enquiry, on that date both parties filed a joint memo stating that without prejudice to their respective contentions the matter had been settled as per the terms of settlement appended

to the joint memo and so an award may be passed in terms of the settlement and the same was recorded.

5. A perusal of the terms of settlement shows that as regards the petitioners whose names are mentioned in Item I to the schedule of the reference the respondent had agreed to continue their services and that the parties also had agreed that they should be allowed further increment from 15th August, 1972 onwards and that on completion of the work in the Forest Department these two persons would be absorbed in the suitable vacancies in the company. So far as the same petitioners referred to in Item II of the schedule to the reference are concerned a perusal of the settlement shows that the parties had agreed that these two workmen would be considered for promotion to the grade of Rs. 205—325 on the basis of seniority-cum-merit when vacancies arise in that grade. So it is seen from the terms of settlement that practically the petitioners got what they had asked for. I am satisfied that the settlement is a fair settlement and that an award can be passed in terms of the settlement.

6. In the result an award is passed in terms of the settlement. A copy of the joint memo and the terms of settlement shall be appended to this award.

Dictated to the Stenographer transcribed by him and corrected by me and given under my hand and the seal of this Tribunal, this the 26th day of August, 1972.

(Sd.) P. S. ANANTH,  
Industrial Tribunal

#### Appendix of Evidence

Witness examined for petitioners.—W.W. 1 K. Sambasiva Rao.

Witnesses examined for respondent.—Nil.

#### Documents Exhibited for Petitioner

Ex. W. 1—Appointment order dated October, 1967 issued by the General Manager, S. C. Co. Ltd., Kothagudem to K. Sambasiva Rao as Forest Clerk.

Ex. W. 2—Office order dated March, 1967 issued by the General Manager S. C. Co. Ltd., Kothagudem to K. Sambasiva Rao, temporary Forest Clerk to continue in the company's service for a period of one year with effect from 21st April, 1967.

Ex. W.3—Appointment order dated February, 1968 issued by the General Manager, S. C. Co. Ltd., Kothagudem to K. Sambasiva Rao as Forest Clerk for a period of six months, in the grade of Rs. 180—5—230—7—265

Ex. W.4—Office order dated August, 1969 issued by the General Manager S. C. Co. Ltd., Kothagudem to K. Sambasiva Rao Temporary Forest Clerk to continue in the company service for a period of six months.

Ex. W. 5—Office order dated 17th April, 1970 issued by the General Manager S. C. Co. Ltd., Kothagudem to K. Sambasiva Rao to continue in the Company's service to a period of six months.

Ex. W. 6—Letter dated 12th July, 1971 of Sri M Komarajah, General Secretary, S. C. Workers Union addressed to the General Manager, S. C. Co. Ltd. Kothagudem.

Ex. W. 7—Letter dated 19th April, 1971 of Sri M Komarajah, General Secretary S. C. Workers' Union addressed to General Manager, S. C. Co. Ltd., Kothagudem.

#### Documents Exhibited for Respondent—Nil

(Sd.) P. S. ANANTH,

Industrial Tribunal

BEFORE THE HON'BLE INDUSTRIAL TRIBUNAL  
(CENTRAL) HYDERABAD.

I. D. No. 8 of 1972

BETWEEN

M/s. K. Sambasiva Rao and M. Rajendra Prashad Forest Clerks, represented by the Singareni Collieries Workers' Union, Kothagudem.—*Workmen.*

AND

The Management of Singareni Collieries Co. Ltd. Kothagudem.—*Employers.*



The parties above named beg to state that without prejudice to their respective contentions, the above reference has been amicably settled on the terms appended. It is, therefore, humbly prayed that the above reference may kindly be disposed off and an Award passed in terms of the above settlement and for this, the parties, as in duty bound, shall ever pray.

For Workmen

(Sd.) M. KOMARAIHA,  
General Secretary,  
Singareni Collieries Workers'  
Union, Kothagudem.  
[No. P. 40/3053/2095.]

For Employers

(Sd.) N. BHASKARACHARY,  
Chief Personnel Officer,  
Singareni Collieries  
Co. Ltd.

Kothagudem Collieries  
Dated 23rd August, 1972.

Memorandum of Settlement arrived at between the Management of Singareni Collieries Co. Ltd., and the Singareni Collieries Workers' Union, Kothagudem during the discussions held on 21st August, 1972 regarding I.D. 8 of 1972 relating to Sri K. Sambasiva Rao and Sri M. Rajendra Prasad, Forest Clerks.

#### Names of parties

Representing the Management Representing the Union  
(Singareni Collieries Co. Ltd.) (Singareni Collieries Workers' Union)

1. Sri M. K. V. Subbalaah, Deputy General Manager, Kothagudem.
2. Sri N. Bhaskarachary, Chief Personnel Officer, Kothagudem.
- Sri M. Komaralah, General Secretary.

#### Short recital of the case

The Management proposed to terminate the services of Sri K. Sambasiva Rao and M. Rajendra Prasad, Temporary Forest Clerks in the grade of Rs. 180—5—230—7—265 when their services were no longer required. The General Secretary of the Singareni Collieries Workers' Union raised a dispute with regard to the termination of their services and also claimed the grade of Rs. 205—325 for them and this dispute was eventually referred for adjudication to the Industrial Tribunal (Central), Hyderabad with the following schedule of reference:

- "1. Whether the action of the Management of Singareni Collieries Company Limited, Kothagudem is justified in terminating the services of Sarvashri K. Sambasiva Rao and M. Rajendra Prasad, Forest Clerks of Main Stores? If not, to what relief are they entitled?
2. Whether the action of the Management in not fixing Sarvashri K. Sambasiva Rao and M. Rajendra Prasad in the grade of Rs. 205—325 with retrospective effect is justified? If not, to what relief are they entitled?"

S/Sri K. Sambasiva Rao and M. Rajendra Prasad continued in service on temporary basis and their services were not terminated as proposed in view of continuation of forest work. However, having regard to the future requirements of the Company and with a view to arrive at an amicable settlement the parties held discussions and have agreed to settle this dispute on the following terms:

#### Terms of Settlement

- (1) The Management agreed to continue the services of S/Sri K. Sambasiva Rao and M. Rajendra Prasad as Forest Clerks in the grade of Rs. 180—5—230—7—265 and to allow them a basic of Rs. 190 after allowing two increments in the grade of Rs. 180—5—230—7—265

with effect from 15th August, 1972. They will be allowed further increment from 15th August, 1973 onwards in the said grade subject to satisfactory reports of their work.

- (2) On completion of the work in Forest Section for which these persons were employed, they will be absorbed in suitable vacancies in the company in the grade of Rs. 180—5—230—7—265 anywhere in the collieries.
- (3) They will be considered for promotion to the grade of Rs. 205—325 on the basis of seniority-cum-merit when there are vacancies in that grade.
- (4) The Union agreed to withdraw their claims as contained in the schedule of reference referred to above.
- (5) The parties agreed to request the Hon'ble Industrial Tribunal (Central), Hyderabad to dispose off the dispute pending in the Tribunal in terms of this Settlement.

#### Signatures of the parties:

Representing the Management: Representing the Union:  
(Sd.) M. K. V. SUBBALAH, (Sd.) M. KOMARAIHA,  
(Sd.) N. BHASKARACHARY,

#### Witnesses:

1. (Sd.) V. GOPALA SASTRY,  
A.P.O. CPO's Office.
2. (Sd.) M. V. SUBRAHMANYAM,  
A.P.O. CPO's Office.

Dated: 21st August, 1972.  
Kothagudem Collieries.

[No. L-2112/44/71-LRII.]

S.O. 2579.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the matter of an application under Section 33A of the said Act, from Shri K. Posham, Electrician Morgans Pit, Post Office Bellampalli (Andhra Pradesh) which was received by the Central Government on the 2nd September, 1972.

#### BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

#### PRESENT:

Sri P. S. Ananth, B.Sc., B.L., Chairman, Industrial Tribunal, Andhra Pradesh, Hyderabad.

MISCELLANEOUS PETITION NO. 1 OF 1971  
IN

INDUSTRIAL DISPUTE NO. 3 OF 1970

#### BETWEEN:

K. Posham, Electrician, Morgans Pit, Bellampalli Collieries—Petitioner

#### AND

The Management of Singareni Collieries Company Limited, Bellampalli, Dy. General Manager, S.C. Co. Ltd., Post Bellampalli—Respondent.

#### APPEARANCES:

Sri B. Gangaram, Vice President, S. C. Workers Union, Bellampalli, for Petitioner

Sri M. Shyam Mohan, Personnel Officer, S.C. Co. Ltd., Bellampalli, for Respondent.

#### AWARD

This is a petition filed under Section 33A of the Industrial Disputes Act, 1947 (hereinafter referred to the said Act).

2. The petitioner in his petition contended that Industrial Dispute No. 3 of 1970 was pending, (I.D. No. 3 of 1970 was subsequently disposed of), that on 19th November, 1970 witnesses were examined in that dispute, that the Management is harassing the petitioner by changing the service conditions, that all these days he was working independently and he was responsible to the supervisor and the engineer, that he was being provided with one helper or mazdoor to carry tools and assist him, that on 8th December, 1970 in the second shift the Management removed him from the general shift and forced him to work under the supervision of Vth category electrician and refused to provide one helper or mazdoor, that he is being forced to carry the tools and that the service conditions have been changed and so the Management should be directed to maintain the status quo and pay wages from 8th December 1970 onwards.

3. The respondent, which is Singarani Collieries Company Limited, Bellampalli Division, in its counter contended that the reference in Industrial Dispute No. 3 of 1970 is whether the Management of Singarani Collieries Company Limited is justified in denying the wages of new Category V to the petitioner, that the present complaint is not in any way concerned with the dispute in I.D. No. 3 of 1970 that whether the petitioner was working independently and whether his designation was shift electrician and whether his duties are similar when compared to other electricians were extensively dealt with in the deposition made by the witnesses on behalf of the management in I.D. No. 3 of 1970, that in the claims statement in I.D. No. 3 of 1970 the petitioner stated that the Management had removed him from the shift and placed him in the general shift under the Assistant Engineer with effect from 23rd May, 1968 whereas in the present M.P. it is stated that from 8th December 1970 in second shift the Management had removed him from the general shift that the management had in paragraph 3 of the reply statement in I.D. No. 3/70 stated that the allegation on that the workman was transferred to general shift on 23rd May, 1968 was not true, that whether a helper is given to the workman or not is the subject matter of the deposition by the witnesses on behalf of the Management in the main industrial dispute and it does not constitute a change of service condition, that the demand of the workman for a helper to carry the tools does not constitute change in service conditions, that the main dispute in I.D. No. 3 of 1970 is in respect of the denial of wages of category V to the workman and the justification thereof and not in respect of the status, that the present petition is misconceived as there is no breach of Section 33(1)(a) of the said Act and so the petition is liable to be dismissed.

4. During the pendency of this petition the management sent a memo stating that the preliminary objection taken by the respondent in its counter may be disposed of. The preliminary objection raised in the counter is that Industrial Dispute No. 3 of 1970 is not in any way concerned or connected with the present dispute and that whether the petitioner was working independently and whether designation was shift electrician and whether the duties are similar when compared with other electrician were extensively dealt with in the deposition in I.D. No. 3 of 1970 and so the petition is liable to be dismissed.

5. So the preliminary objection that has to be considered is whether petition under Section 33A of the said Act is not maintainable?

6. The petitioner has filed the present petition complaining that during the pendency of Industrial Dispute No. 3 of 1970 the respondent has been harassing him by changing the service conditions and that all these days he was working independently and that one helper or mazdoor used to carry the tools and assist him but from 8th December 1970 in the second shift the Management removed him from the general

shift and was forcing him to work under the supervision of the Vth Category Electrician and also refused to provide one helper or mazdoor to him. This petition was filed when Industrial Dispute No. 3 of 1970 was pending and subsequently I.D. No. 3 of 1970 had been disposed of on 24th February 1971. It is contended by the respondent's representative that the main complaint now filed by the petitioner is that no helper is being given to him and so it is not connected with the wages of the workman whereas I.D. No. 3 of 1970, related only to wages. The petitioner's representative contended that after the evidence in I.D. No 3 of 1970 was recorded and when the matter was posted for arguments the helper who was with the petitioner was removed and that the petitioner was also removed from the general shift and posted to other shift and that it only amounts to change in service conditions during the pendency of I.D. No. 3 of 1970 and that as it is a violation of the provisions of Section 33(1) of the said Act, the present petition is maintainable.

7. To appreciate the contentions of the parties it would be useful to refer to the nature of dispute in I.D. No. 3 of 1970. The dispute referred for adjudication in I.D. No 3 of 1970 is:

"Whether the Management of Singarani Collieries Company Limited, Bellampalli is justified in denying the wages of new category V to Sri K Posham, Shift Electrician Morgans Pit? If not, to what relief the workman is entitled?"

From a perusal of the award passed in I.D. No. 3 of 1970, which is in the records, it is seen that the petitioner contended that he was working as shift electrician since a long time, that apart from three electricians of the General Shift there were six electricians in the Morgan's Pit in which there were two sections, that out of those six electricians five shift electricians were paid wages in the new category V while the petitioner was given only the wages of new category IV, that when he made representations to the management, it removed him from the shift and placed him in the general shift with the object of denying the petitioner the wages of new category V. So the main dispute in I.D. No. 3/70 is only as regards the wages that had to be paid to the respondent as contended by the respondent's representative. It is also seen from the award referred to that the respondent contended that the petitioner never worked as shift incharge electrician, that it was the practice to have at least one category V electrician and one or more category IV electricians in each shift, that as category V electrician was senior to category IV electrician, category V electrician was put in charge of the shift and the other electricians work under him but there was no designation of shift electrician and that the transfer was made on account of necessity. The award referred to also shows that my learned predecessor held that the Management was justified in not paying wages of new category V to the petitioner and that his transfer to the general shift from the back shift was not *mala fide*.

8. Under Section 33(1) of the said Act, during the pendency of any proceedings before the Tribunal, no employer shall in regard to any matter connected with the dispute, alter to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings or for any misconduct connected the dispute, discharge or punish, whether by dismissal or otherwise any workman concerned in such dispute. So far as the petitioner is concerned Section 33(1)(b) of the said Act has no application because the present petition does not relate to any action taken by the respondent for any misconduct connected with the dispute. So the petitioner has to come only under Section 33(1) (a) of the said Act for filing a petition under Section 33A of the said Act. As per Section 33(1)(a) of the said Act a workman can complain of violation of the provisions of Section 33(1)(a) if in regard to any matter connected

with the dispute the employer alters the conditions of service. In the present case the dispute in I.D. No. 3 of 1970 related only to the question whether the petitioner was entitled to the wages of new category V. So far as the present petition is concerned the complaint now made is that during the pendency of I.D. No. 3 of 1970 the respondent removed him from the second shift on 8th December 1970 and posted him in the general shift and that the respondent also refused to provide him with a helper. As rightly contended by the respondent's representative the complaint now made is not in any way connected with the matter in dispute in I.D. No. 3 of 1970. Even if it is assumed that the petitioner was transferred from one shift to the other shift and if the management refused to provide a helper it would not amount to any alteration in the conditions of service because, as already stated, the dispute in I.D. No. 3 of 1970 was purely with reference to the wages of category V claimed by the petitioner. So the alleged transfer of the petitioner from the second shift to the general shift and the alleged refusal to provide the petitioner with a helper cannot be said to be altering the conditions of service in regard to the matter in dispute in I.D. No. 3 of 1970. In as much as the present complaint made by the petitioner does not amount to any violation of the provisions of Section 33(1)(a) of the said Act the petitioner is not entitled to file a petition under Section 33A of the said Act, because it is only if an employer contravenes the provisions of Section 33 during the pendency of the proceedings before the Tribunal a petition under Section 33A of the said Act would lie. So I hold on the preliminary objection that the petition is not maintainable under Section 33A of the said Act.

9. In view of my finding on the preliminary objection raised by the respondent it follows that the petition is liable to be dismissed as not a maintainable. So the petition is dismissed as not maintainable.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him and corrected by me and given under my hand and the seal of the Tribunal, this the 19th day of August, 1972.

(Sd.) P. S. ANANTH,  
Industrial Tribunal.

#### Appendix of Evidence

Nil

Industrial Tribunal.

[No. 7/29/69-LRI.]

**S.O. 2580.**—Whereas an industrial dispute exists between the employers in relation to the management of Pure Searsole Colliery, Post Office Searsole Rajbari, District Burdwan (hereinafter referred as the said employers) and their workmen represented by the Colliery Mazdoor Congress (HMP), Gorai Mansion, Post Office Asansol, District Burdwan (hereinafter referred to the said Union);

And Whereas the said employers and the said union have by a written agreement, in pursuance of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), agreed to refer the said dispute to arbitration of the persons specified therein, and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said arbitration agreement which was received by it on the 1st September, 1972.

## AGREEMENT

### (UNDER SECTION 10A OF THE INDUSTRIAL DISPUTES ACT, 1947)

BETWEEN:

#### *Name of the Parties*

*Representing employer.*—Shri R. P. Singh, Agent, Pure Searsole Colliery, P.O. Searsole Rajbari, Distt. Burdwan.

*Representing workmen.*—Shri Vinay Kumar, General Secy., Colliery Mazdoor Congress (HMP), Gorai Mansion, G. T. Road, Asansol.

It is hereby agreed between the parties to refer the following dispute under section 10A of the Industrial Disputes Act, 1947 for joint arbitration of S/Shri N. K. Banerjee, Assistant Labour Commissioner (Central) Hd. Qrs. Asansol, Nageshwar Sahl, M.P. 216 North Avenue, New Delhi and J. Singh, Technical Director, M/s. Sethla Mining and Mfg. Corporation Limited, P.O. Devchandnagar, District Burdwan.

- (i) *Specific matters in disputes.*—Whether the Management of Pure Searsole Colliery, P.O. Searsole Rajbari, Distt., Burdwan, having regard to their financial capacity and quality of coal are justified in not granting the annual increments due on August 15, 1970 and August 15, 1971 as per recommendations of the Central Wage Board for the Coal Mining Industry, if not what should be the quantum of relief and from what date?
- (ii) whether the management of the aforesaid Colliery having regard to their financial capacity and quality of coal are justified in not paying variable Dearness Allowance at the rate of Rs. 2.13 per day per head to their workmen from April 1, 1972 alongwith arrears of Variable Dearness Allowance at the rate of Rs. 1.53 P, Rs. 1.62 P, Rs. 1.86 P, Rs. 1.77 P, from due dates as per recommendations of the Central Wage Board for the Coal Mining Industry if not what should be the quantum of variable Dearness Allowance in the Colliery and from what date?
- (iii) Details of the parties to the dispute including the names and address of the establishment or undertaking involved.—Pure Searsole Colliery, P.O. Searsole Rajbari, Distt. Burdwan.
- (iv) Name of the Union, if any, representing the workmen in question.—Colliery Mazdoor Congress (HMP), Gorai Mansion, G.T. Road, Asansol (Burdwan).
- (v) Total Number of workmen employed in the undertaking affected.—435.
- (iv) Estimated number of workmen affected or likely to be affected by the dispute.—435.

We further agree that the majority decisions of the arbitrator shall be binding on us/in case the arbitrators are equally divided in their opinion, they shall appoint another persons as Umpire whose award shall be binding on us.

The Arbitrators shall make their award within a period of 6(six) months or within such further time as is extended by the mutual agreement between us in writing. In case the Award is not made within

the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

*Signature of the Parties:*

*Representing employer:*

(Sd.) R. P. Singh,

Witnesses:—

1. (Sd.) Illegible,  
14/8

2. (Sd.) Illegible,  
14/8

No. AICR-16(142)/72

Dated: 14th August, 1972.

*Representing workmen:*

(Sd.) VINAY KUMAR,

14-8-72

(Sd.) R. D. SHAKYAWAR,  
Assistant Labour Commissioner(Central),  
Raniganj.

[No. L/19013/2/72-LRII.]

श्रम और पुनर्वासि मंत्रालय

(श्रम और रोजगार विभाग)

नई दिल्ली, 14 सितम्बर, 1972

का० आ० 2580.—यतः प्योर सियर-सोल कोलियरी, डाकघर सियरसोल राजबारी, जिला बर्दवान (इसके बाद उक्त नियोजक के रूप में निर्देशित) के प्रबन्धतन्त्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, जिनका प्रतिनिधित्व कोलियरी मजदूर कांग्रेस (एच० एम० पी०), गोराई मेनशन, डाकघर आसनसोल जिला बर्दवान (इसके बाद उक्त यूनियन के रूप में निर्देशित) करती है, एक औद्योगिक विवाद विद्यमान है ;

और यतः उक्त नियोजकों और यूनियन के औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10-क की उपधारा (1) के उपबन्धों के अनुसरण में एक लिखित करार द्वारा उक्त विवाद को उसमें वर्णित व्यक्ति के माध्यस्थता के लिए निर्देशित करने का करार कर लिया है और उक्त माध्यस्थता करार की एक प्रति केन्द्रीय सरकार को भेजी गई है ;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10-क की उपधारा (3) के उपबन्धों के अनुसरण में, केन्द्रीय सरकार उक्त माध्यस्थता करार को, जो उसे 1 सितम्बर, 1972 को मिला था, एतद्वारा प्रकाशित करती है।

(करार)

(औद्योगिक विवाद अधिनियम, 1947 की धारा 10-क के अधीन)

बीच

पक्षकारों के नाम :

नियोजकों का प्रतिनिधित्व करने वाले

1. श्री आर० पी० सिंह, अभिकर्ता,  
प्योर सियर सोल कोलियरी,  
डाकघर—सियर सोल राज-  
बारी, जिला—बर्दवान।

कर्मकारों का प्रतिनिधित्व करने वाले

1. श्री विनय कुमार, महामंत्री,  
कोलियरी मजदूर कांग्रेस,  
(एच० एम० पी०), गोराई  
मेनशन, जी० टी० रोड, आसन-  
सोल।

पक्षकारों के बीच निम्नलिखित औद्योगिक विवाद को, औद्योगिक विवाद अधिनियम, 1947 की धारा 10-क के अधीन, सर्वश्री एन० के० बीनर्जी, सहायक श्रमायुक्त (केन्द्रीय) मुख्यालय आसनसोल, नागेश्वर साहू, संसद् सदस्य, 216 नार्थ एवेन्यू, नई दिल्ली और जे० सिंह, तकनीकी निदेशक, मैसर्स सेथिया माइनिंग एण्ड मेनुफैक्चरिंग कारपोरेशन लिमिटेड, डाकघर देवचन्द नगर, जिला बर्दवान के संयुक्त माध्यस्थता के लिए निर्देशित करने का करार किया गया है :—

1. विनिर्दिष्ट विवाद ग्रस्त विषय :

क्या प्योर सियर सोल कोलियरी डाकघर सियर-सोल राजबारी, जिला बर्दवान के प्रबन्धमण्डल का, अपनी आर्थिक क्षमता और कोयले की किस्म को ध्यान में रखते हुए कोयला खनन उद्योग सम्बन्धी केन्द्रीय वेतन बोर्ड की सिफारिशों के अनुसार 15 अगस्त, 1970 और 15 अगस्त, 1971 को देय वार्षिक वृद्धियों को मंजूर न करना न्यायोचित है, यदि नहीं तो अनुतोष का मात्रा क्या और किस तारीख से होनी चाहिए ?

(2) क्या उपरोक्त कोलियरी के प्रबन्ध मण्डल का, अपनी आर्थिक क्षमता और कोयले की किस्म को ध्यान में रखते हुए, कोयला खनन उद्योग सम्बन्धी केन्द्रीय वेतन बोर्ड की सिफारिशों के अनुसार 1 अप्रैल, 1972 से अपने कर्मकारों को 2 रुपये 13 पैसे प्रतिदिन की दर से परिवर्ती महंगाई भत्ते के साथ परिवर्ती महंगाई भत्ते की बकाया देय राशियाँ, 1 रुपया 53 पैसे, 1 रुपया 62 पैसे, 1 रु० 86 पैसे, 1 रु० 77 पैसे की दर से देय तारीखों से न देना न्यायोचित है, यदि नहीं तो कोलियरी में परिवर्ती महंगाई भत्त

की मात्रा क्या और किस तारीख से होनी चाहिए ?

- (3) विवाद के पक्षकारों का विवरण, जिसमें अर्न्तवर्तित स्थापन या उपक्रम का, नाम और पता भी सम्मिलित है। 1. प्योर मियरमोल कोलियरी, डाकघर मियरमोल राजबारी, जिला बर्दवान।
- (4) यदि कोई संघ प्रश्नगत कर्मकारों का प्रतिनिधित्व करता हो, तो उसका नाम। कोलियरी मजदूर कांग्रेस (एच० एम० पी०) गोरगई मेनशन, जी० टी० रोड, आसनसोल, बर्दवान
- (5) प्रभावित उपबन्ध में नियोजित कर्मकारों की कुल संख्या। 435
- (6) विवाद द्वारा प्रभावित या सम्भाव्यतः प्रभावित होने वाले कर्मकारों की प्राक्कलित संख्या। 435

हम यह करार भी करते हैं कि मध्यस्थ का विनिश्चय हम पर आबद्धकर होगा। यदि विवादियों के मत, पक्ष और विपक्ष में बराबर रूप से विभाजित होते हैं, तो वे एक अन्य व्यक्ति को निर्णायक के रूप में नियुक्त करेंगे और उसका निर्णय हम पर आबद्धकर होगा।

मध्यस्थ अपना पंचाट 6 (छः) मास की कालावधि या इतने और समय के भीतर जो हमारे बीच पारस्परिक लिखित करार, द्वारा बढ़ाया जाय, देगा। यदि पूर्व वर्णित कालावधि के भीतर पंचाट नहीं दिया जाता तो माध्यस्थम् के लिए निदेश स्वतः रह हो जायगा और हम नए माध्यस्थम् के लिए बातचीत करने को स्वतन्त्र होंगे।

पक्षकारों के हस्ताक्षर

नियोजकों का प्रतिनिधित्व करने वाले : कर्मकारों का प्रतिनिधित्व करने वाले :

ह० आर० पी० सिंह साक्षी ह० बिनय कुमार 14/8/72

1. ह० अस्पष्ट

2. ह० अस्पष्ट

संख्या ए०एल०सी०आर०-16(142)/72

तारीख : 14 अगस्त, 1972

ह० आर० डी० शक्ष्यावार

सहायक श्रमायुक्त (केन्द्रीय), रानीगंज।

[संख्या एल०/19013/2/72-एल०आर०-2]

करनैल सिंह, अवसर सचिव।

New Delhi, the 15th September, 1972

S.O. 2581.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employer in relation to the management of New Dharmaband Colliery, Post Office Malkera, District Dhanbad and their workmen, which was received by the Central Government on the 13th September, 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 3 OF 1971

PARTIES:

Employers in relation to the management of New Dharmaband Colliery, P.O. Malkera, (Dhanbad).

AND

Their Workmen.

PRESENT:

Shri A. C. Sen, Presiding Officer.

APPEARANCES:

For the Employers: . . . Shri S. S. Mukherjee, Advocate.

For the Bharat Coking Coal Ltd: being added as party vide order No. 12 dt. 24-3-72 Shri B. Joshi, Advocate with Shri J. N. P. Sahi, and Law Adviser.

For the Workmen: . . . Shri T. P. Choudhury, Advocate with Shri J. D. Lal, Advocate.

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, dated the 5th September 1972

AWARD

The present reference arises out of order No. 2/68/70-LR.II dated New Delhi, the 17th May, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:

"Whether the action of the management of New Dharmaband Colliery, Post Office Malkera, District Dhanbad in dismissing the following workmen with effect from the 18th October, 1969 is justified? If not, to what relief are they entitled?"

S. No.	Name	Designation
1.	Shri Khallpa Raut . . .	Fireman
2.	" Tapsi Mahato . . .	S. Trammer
3.	" Chandra Deo Shaw . . .	"
4.	" Deo Lal Singh . . .	U/G Trammer
5.	" Shib Lal Shaw . . .	"
6.	" Satyanarayan Singh . . .	"
7.	" Bajinath Yadav . . .	S. Trammer
8.	" Rameshwar Singh . . .	C.C.M. Driver
9.	" Muneshwar Singh . . .	S. Trammer
10.	" Babu Chand Dusadh . . .	U/G. Trammer
11.	" Janardan Bharati . . .	Banksman.
12.	" Jairam Rewani . . .	Banksman.

S No.	Name	Designation
13.	Shri Lalchand Shai . . .	S. Trammer.
14.	„ Madan Rauth . . .	Fan Khalasi
15.	„ Bindeshwar Mis.r . . .	U/G. Trammer.
16.	„ Nazir Shai . . .	U/G. Trammer.
17.	„ Thapsi Bin . . .	U/G. Trammer.
18.	„ Gokhul Rewani . . .	W.E Khalasi.
19.	„ Fazil Shai . . .	S. Trammer
20.	„ Pancham Pasi . . .	„
21.	„ Ramdeo Rabidas . . .	Loader.
22.	„ Ramasajivan Murai . . .	Trammer.
23.	„ Khushi Lal Lohar . . .	U/G. Trammer
24.	„ Fawadari Dusadh . . .	U/G. Trammer.
25.	„ Garibchand Lohar . . .	Loader.
26.	„ Nathun Mahato . . .	U/G. Trammer
27.	„ Kuldeep Mochi . . .	Loader
28.	„ Chanaik Dusadh . . .	U.G. Trammer.
29.	„ Rambali Dusadh . . .	„
30.	„ Jafar Ali Mian . . .	„
31.	„ Pradip Singh . . .	„
32.	„ Bara Hamid Mia . . .	„
33.	„ Mohan Dhobi . . .	Surface Trammer
34.	„ Yakin Mian . . .	Loader.
35.	„ Panchu Rabidas . . .	U/G. Trammer.
36.	„ Mahabir . . .	Loader.
37.	„ Sukhan Mahato . . .	U/G. Trammer
38.	„ Dayanand Pandey . . .	Trolleyman.
39.	„ Munir Khan . . .	Machine Driver.
40.	„ Basdeo Singh . . .	U/G. Trammer."

2. The written statement of the employers were received on 15th June, 1971 and that of the workmen on 21st June, 1971. The workmen filed their rejoinder on 21st July, 1971. On 5th November, 1971 Shri J. D. Lau appearing on behalf of the workmen filed a petition for unpleading the Custodian General and the Custodian on the formation of the Bharat Coking Coal Co. Ltd., to manage the Coking Coal Mines on behalf of the Central Government, the question arose whether that company should be added as a party. A petition was filed by the Bharat Coking Coal Co. Ltd., on 24th March, 1972 stating that it had no objection to being added as a party. An order was passed on that date by the Tribunal adding the Bharat Coking Coal Co. Ltd., as a party to the proceeding. Written statement on behalf of the Bharat Coking Coal Co. Ltd., was received on 22nd May, 1972.

3. The Bharat Coking Coal Co. Ltd., has adopted without prejudice to its contention as to its liability for the acts of the old management, the written statement filed by the outgoing employers on merits. I therefore propose first of all to refer to the contents of the written statement filed by the outgoing employers. According to the order of reference passed by the Central Government the dispute is between the employers in relation to the management of New Dharmaband Colliery and their workmen. It has been stated in para 3 of the outgoing management's written statement that the colliery previously called the Khas Dharmaband Colliery was purchased by M/s. Sethia Mining and Manufacturing Corporation Ltd., by a registered deed dated 22nd October, 1969 and the Khas Dharmaband Colliery was named as New Dharmaband Colliery from 22nd October, 1969. Paragraph 4 states that the concerned workmen were dismissed by M/s. Khas Dharmaband Colliery Co. (P) Ltd., the previous owner of the New Dharmaband Colliery before the date of purchase of this colliery by the Sethia Mining and Manufacturing Corporation Ltd., and as such the existing management has been unnecessarily made a party. It has been stated in para 5 that no industrial dispute having been raised with the present employers by the workmen concerned or by their union, the present reference is bad in law. It has also been contended in para 1 that the present reference is not legally maintainable.

4. The version of the management as to the dismissal of the concerned workmen is as follows: On 28th April 1969, between 8-30 A.M. and 10-15 A.M. a mob consisting of about 200 persons including the concerned workmen armed with bow, arrows and other weapons attacked and pelted stones at the colliery office, pit No. 1 and 2 and residential quarters causing damages to the properties of the company, and assaulted the persons on duty and staying in quarters. The assault resulted in the death of two persons and serious injuries to others. Further the mob indulged in looting the belongings of the employers of the colliery. Individual charge-sheets dated 4th July, 1969 were issued to the concerned workmen charging them with the misconduct or violent, riotous and disorderly behaviours. Twenty six out of the forty concerned workmen submitted their replies to the allegations in the charge-sheets between 6th July, 1969 and 10th July, 1969.

5. As to how the domestic enquiry was conducted the management has stated as follows in paras 10 to 15 of its written statement. Letters all dated 5th August, 1969 fixing the date of enquiry on 13th August, 1969 were issued to all the concerned workmen by registered post with acknowledgement due. Only two of the concerned workmen attended the enquiry. In order to give another opportunity to the concerned workmen the enquiry was postponed. They were informed about the dates of enquiry by letters dated 20th August, 1969 sent to them by registered post to their home as well as colliery addresses, some of which came back undelivered. The dates of enquiry were also published in the New Sketch, a weekly journal, on 25th August, 1969. The concerned workmen with five more were divided into three batches and the departmental enquiry in respect of the first batch took place on 8th September, 1969, in respect of the second batch on 10th September, 1969 and in respect of the third batch on 12th September, 1969. On 10th September, 1969 only two among the concerned workmen attended the enquiry, on 10th September, 1969 only five attended the enquiry and on 12th September, 1969 one attended the enquiry. The enquiries were conducted by Shri B. Lal, Advocate, Dhanbad in conformity with the principles of natural justice.

6. As to the result of the domestic enquiry the management has stated as follows. The misconducts alleged against the concerned workmen having been proved satisfactorily at the enquiry the concerned workmen were dismissed by letters all dated 14th October, 1969 by M/s. Khas Dharmaband Colliery Co. (P) Ltd., with effect from 18th October, 1969.

7. The workmen in their written statement have thrown the entire blame on the management. According to them, the concerned workmen have been victimised for their trade union activities. They assert that the management let loose a reign of terror to break up the rival union set up by the concerned workmen along with others. Their version is as follows. The concerned workmen and others became members of the Bihar Colliery Kamgar Union sometime in the beginning of the year 1969 and most of the concerned workmen were active members of the said union. The management was not at all favourably disposed towards this union as it was led by a leader of Communist Party of India (Marxist), hence it was seeking for an opportunity to crush this union.

8. As to the incident of 28th April, 1969, the workmen say that the management employed a large number of professional "Lethals" or goondas to terrorise the workmen, who were members of the Bihar Colliery Kamgar Union and that this ultimately led to an incident on 28th April, 1969 in the colliery.

9. The workmen have expressed their unwillingness to say anything regarding the incident of 28th April, 1969 on the ground that already a criminal case under Sec. 302 I.P.C. read with Secs. 149, 144, 148 I.P.C. has been instituted in respect of that incident and that the police investigation has not yet been completed.

10. According to the union, the management taking advantage of the unfortunate incident of 28th April, 1969 let loose a reign of terror in the colliery with the help of their professional *goondas* and with the connivance of the local police as a result of which a large number of workmen including the concerned workmen were driven out of the colliery by force and some of them were implicated and arrested by the police in the criminal case at the instance of the management. The union further says that the management taking advantage of this unfortunate incident and of the forced absence of the concerned workmen and others issued charge-sheets to several workmen including the concerned workmen. Its further case is that the charge sheets were received by some of the affected workmen only and that only some of them could reply to the charge sheets denying the charges.

11. As to the departmental enquiry the union says that the management failed to intimate the date, venue and time of the enquiry, as a result of which the concerned workmen could not attend the alleged enquiry. Its further case is that six of the concerned workmen were in jail custody on the alleged dates of enquiry to the knowledge of the management.

12. The union says that even the letters of dismissal were not received by most of the concerned workmen and that they came to know about their dismissal from other sources. The union has characterised the action of the management in dismissing the concerned workmen as illegal and malafide. It asserts that their dismissal smacks of victimisation for their trade union activities.

13. The union's main grievance is that the concerned workmen were denied reasonable opportunity to defend themselves in as much as only a few of the concerned workmen actually received the charge sheets. Its further grievance is that even those who received charge sheets were not intimated the date, venue and time of departmental enquiry, and that consequently the concerned workmen could not attend the alleged departmental enquiry to defend themselves.

14. The union has pointed out that in the first information report which was lodged with the police by one of the personnel of the management, the names of only seven out of forty concerned workmen were mentioned. According to the union, even the seven whose names find place in the first information report are quite innocent.

15. In the opinion of the union, having regard to the tense atmosphere that prevailed at the relevant time on account of the terrorisation of the workmen by the *goondas* engaged by the management, no purposeful and impartial enquiry could be held in such an atmosphere. It says that the management should have waited for the result of the criminal case already instituted, as the charges were of a grave nature and that the management should not have rushed through the departmental enquiry to the prejudices of the defence of the concerned workmen in their trial in court. The union has characterised the finding of the enquiry officer as perverse not supported by any evidence. It has contended that no charge could have been proved individually against all the affected workmen.

16. The management submitted its rejoinder on 21st July, 1971. The gist of the rejoinder is as follows. The New Dharmaband Colliery came into existence on 22nd October, 1969 and the concerned workmen had been dismissed before that date by the previous management. The management is not aware if the concerned workmen became members of the Bihar Colliery Kamgar Union in the beginning of 1969 or if they are the active members of the union. The concerned workmen participated in the criminal activities on 28th April, 1969 along with others. They committed the acts of misconduct mentioned in the charge sheets. The notices of enquiries were duly served. The manage-

ment was not aware that six of the concerned workmen were in jail custody during the relevant time. All the letters of dismissal were sent by registered post but some came back undelivered. The concerned workmen, for the matter of that, most of them avoided the enquiries with motives best known to them. The concerned workmen were dismissed on proved misconduct. They were not victimised for their trade union activities. The workmen named in the first information report were not falsely implicated by the management. The criminal case has nothing to do with the departmental proceedings. Four of the concerned workmen have voluntarily received full and final payments from the previous employers namely M/s. Khas Dharmaband Colliery Co. (P) Ltd., and hence there is no dispute in respect of them.

17. The workmen filed a corrigendum to their original written statement on 21st July, 1971 by substituting for the last sentence in para 15, the following line: "It may be mentioned here that in the F.I.R. which was lodged with the police by one of the personnel of the management, namely, Shri D. N. Singh Asst. Manager of the colliery, the names of none of the affected workmen find place in it, though workmen at serial Nos. 2, 18, 26, 27, 31, 34 and 38 are accused in the case". The union also filed a rejoinder dated 6th October, 1971 to the written statement of the employers, but nothing important has been stated therein.

18. Let me first of all deal with the preliminary objection raised on behalf of the outgoing management. It is contended by Shri S. S. Mukherjee that the concerned workmen having been dismissed by the employers in respect of the management of the Khas Dharmaband Colliery, industrial dispute, if any, must exist between the employers in respect of the management of the Khas Dharmaband Colliery and their workmen. But, he argues, as the present reference starts by saying that whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of New Dharmaband Colliery and their workmen, the reference is bad on the face of it. He has drawn my attention to para 3 of the management's written statement which runs thus: "That the colliery previously called Khas Dharmaband Colliery was purchased by M/s. Shethia Mining and Manufacturing Corporation Ltd., by a registered deed dated 22nd October, 1969 and the above colliery was named as New Dharmaband Colliery from 22nd October, 1969".

19. It is not disputed that the concerned workmen were dismissed with effect from 18th October, 1969 and the deed of sale purporting to transfer the Khas Dharmaband Colliery to M/s. Shethia Mining and Manufacturing Corporation Ltd., is dated 22nd October, 1969. The name of the colliery was changed to New Dharmaband Colliery. The schedule to the order of reference raises the question whether the action of the management of New Dharmaband Colliery in dismissing the concerned workmen with effect from 18th October, 1969 is justified. Shri Mukherjee argues that this question is incapable of being answered as the concerned workmen were admittedly not dismissed by the management of New Dharmaband Colliery, the dismissal having been made by the management of Khas Dharmaband Colliery.

20. The preliminary objection taken by the management of New Dharmaband Colliery seems to be untenable. From the failure of conciliation report it appears that the subject matter of dispute before the Conciliation Officer, was as follows: "Industrial dispute between the management of New Dharmaband Colliery of M/s. Shethia Mining and Manufacturing Corporation Ltd., and their workmen represented by Bihar Colliery Kamgar Union.....over alleged illegal and unjustified dismissal of 50 workmen". The substantial case for the management of New Dharmaband Colliery before the Conciliation Officer was that the workmen from serial Nos. 1 to 45 of the list had been dismissed



on account of proved misconduct and as such the question of their reinstatement did not arise. No such objection was taken before the Conciliation Officer that the management of New Dharmaband Colliery had no obligation towards the concerned workmen who were dismissed by the management of Khas Dharmaband Colliery. It was not contended that there was no industrial dispute between the management of New Dharmaband Colliery and their workmen over the dismissal of the concerned workmen. In other words the preliminary objection now taken before me was not taken before the Conciliation Officer. It is now too late to take such objection before the Tribunal.

21. It is needless to point out that under section 12 of the Act the Conciliation Officer holds conciliation proceeding in the prescribed manner where any industrial dispute exists or is apprehended. The Conciliation Officer tries to induce the parties to come to a fair and amicable settlement of the dispute. If no such settlement is arrived at he submits his failure report. If on a consideration of the report the appropriate Government is satisfied that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal, it may make such reference. Therefore it is the dispute before the Conciliation Officer that is afterwards referred to the Tribunal. In the instant case the dispute before the Conciliation Officer was that between the management of New Dharmaband Colliery and their workmen, and it is this dispute that has been referred to the Tribunal on the failure of the Conciliation Officer to bring about an amicable settlement. Therefore it cannot be said that the present reference is bad. In any event the management of New Dharmaband Colliery, by reason of the stand taken by it before the Conciliation Officer is precluded from saying that the reference as framed is bad or incompetent. Again it may be pointed out that that before purchase Sethia Mining and Manufacturing Corporation Ltd., was admittedly the Superintending Agents of the Khas Dharmaband Colliery Co. (P) Ltd. Therefore dismissal by the latter was in substance dismissal by Sethia Mining and Manufacturing Corporation Ltd., and for the matter of that by the management of New Dharmaband Colliery.

22. The question may be considered from another point of view. Sethia Mining and Manufacturing Corporation Ltd., the proprietor of New Dharmaband Colliery is by the terms of purchase under an obligation to all workmen and employees in the service of the vendor (Khas Dharmaband Colliery Company Private Ltd.), in connection with the business of the Khas Dharmaband Colliery at the date of completion of sale to receive and take over by transfer into the continued and uninterrupted service of the purchaser (Sethia Mining and Manufacturing Corporation Ltd.), upon the terms and conditions of service applicable to such workmen and employees after the transfer to each of such workmen and employees that are not in any way less favourable to such workmen and employees than those applicable to them immediately before the transfer all such workmen and employees working in the colliery whose names designations and emoluments were detailed in a list signed by both the parties. The purchaser, namely, Sethia Mining and Manufacturing Corporation Ltd., is also under the terms of sale required to bear pay and discharge all claims of workmen and employees of the business of Khas Dharmaband Colliery for salary allowances, gratuities compensation or other form of benefit or relief given to them under law or which may be awarded or directed by Labour or Industrial Commissioner or Tribunal or by any other Authority payable by any past or present owner or employer or upon the said business whether in respect of any past or future employment or services of such workmen or employees. The purchaser is also under an obligation to discharge to the extent of Rs. 99,022.99 the liability of the vendor in respect of a loan taken from the Central Bank of India Ltd., on the security of the colliery and its ap-

purtenances and in respect of all cesses royalties provident fund arrears and other statutory charges and the purchaser was allowed to deduct the said amount from the total price. The total liability of the vendor on the above items is not likely to exceed that amount. According to the principles laid down by the Supreme Court in *Anakapalle Co-Operative Agricultural and Industrial Society Vs. Its Workmen*, 1962 (II) L.L.J. 621 *Sethia Mining and Manufacturing Corporation Ltd., can be regarded having regard to the terms of sale contained in the deed of sale dated 22nd October, 1959 as the successor-in-interest of Khas Dharmaband Colliery Company Private Ltd., in respect of Khas Dharmaband Colliery properties.*

23. The management of New Dharmaband Colliery being the Successor-in-interest of the management of Khas Dharmaband Colliery, if it is found by the Tribunal that the order of dismissal is invalid and inoperative in law, then on the principle laid down by the Supreme Court in *Bihar State Road Transport Corporation Vs. the State of Bihar and others*, 1970 (II) L.L.J. 138, the necessary direction for reinstatement and compensation shall have to be passed against the management of New Dharmaband Colliery. The facts of the case just cited are as follows. The Government of Bihar was conducting through one of its departments called the Rajya Transport Authority, an undertaking of road transport in the State. The concerned workman was appointed on 27th July, 1956 by the said Authority. On April 20, 1959, the State Government set up as from May 1, 1959 a Corporation known as Bihar State Road Transport Corporation to exercise all the powers and perform all the functions which were till then being exercised and performed by the Rajya Transport Authority. The said Authority passed an order dated February 18, 1959 terminating the services of the concerned workman. An industrial dispute having been raised it was referred to the Labour Court by an order dated February 24, 1961 impleading the Corporation as one of the parties to the reference. The Labour Court held that the order of dismissal was not justified and concluded that the concerned workman was deemed to have continued in the service of Rajya Transport and thereafter of the Corporation as the successor-in-title of the Rajya Transport and on this basis directed the Corporation to reinstate the concerned workman in its service and pay compensation from February to September, 1959. The Corporation thereupon filed writ petition contending *inter alia* that the services of the concerned workman having been terminated before the Corporation was set up, the remedy of the concerned workman was against the Rajya Transport Authority and not against the Corporation. The Writ petition was rejected by the Patna High Court. On appeal the Supreme Court substantially upheld the decision of the Labour Court. The Supreme Court treated the Corporation as the successor-in-interest of the Rajya Transport Authority and held that the concerned workman, in the absence of any valid termination of his service, continued to be in the service of the Corporation since May 1, 1959 and that, therefore, the Corporation was bound to pay his wages with all emoluments from May 1, 1959. The Supreme Court further held that for the period from February to April the Rajya Transport Authority was liable to pay his wages and other emoluments, but that the Corporation, as successor-in-title of the said Authority became liable to pay the wages for the period from February to April, 1959 and not from February to September, 1959 as directed by the Labour Court.

24. On the principle laid down by the Supreme Court in the case discussed in the previous paragraph, the remedy of the concerned workmen lies against the management of New Dharmaband Colliery even though dismissal took place prior to its purchase in case the order of dismissal is found to be bad and inoperative in law. The management will be liable to pay wages from the date of their purchase; it will also be liable as successor-in-interest of the management of Khas

Dharmaband Colliery for any wages that became due prior to its date of purchase. That being the legal position the order of reference has rightly stated that the industrial dispute exists between the management of New Dharmaband Colliery and its workmen. The preliminary objection taken by Sri Mukherjee on behalf of the management is, therefore, untenable.

25. Let me now enter into the merits of the reference. The primary question for consideration is whether the departmental enquiry was properly held and whether the findings of the enquiry officer are based on cogent evidence. For the purpose of enquiry the workmen were divided into three batches of fifteen each. The enquiry in respect of the first batch of fifteen commenced on 8th September, 1969 at 8 A.M. The very first sentence of the enquiry proceedings runs as follows: "Enquiry as notified in the 'New Sketch' dated 25th August, 1969 started in respect of the following workmen today dated 8th September, 1969 at 8 A.M. at the office of Khas Dharmaband Colliery". It is not clear who placed the notification in the "New Sketch" before the enquiry officer. The enquiry proceeding is silent on this point.

26. The enquiry officer started taking evidence with these preliminary observations: "Out of 15 persons chargesheeted and named above only one is present to-day. He is Jaram Rewani. Others are not present inspite of the notice issued to them by registered post addressed both to their local and home addresses. As sufficient time has been given it is taken that the workmen have refrained from attending the enquiry without any cause shown. Hence the enquiry is done *ex-parte* in respect of those who are not present". It is not clear how the enquiry officer came to know that notices were issued to these fifteen workmen by registered post addressed both to their local and home addresses. From the proceedings it is clear that no witness on behalf of the management deposed to that effect. It seems the enquiry officer imported his personal knowledge. The enquiry officer was not justified in holding the enquiry in the absence of the fourteen out of fifteen workmen without being satisfied from cogent evidence that the notices fixing the date of hearing were duly served on the concerned workmen.

27. Three witnesses including the Colliery Engineer were examined on 8th September, 1969. The enquiry was thereafter adjourned to 10th September, 1969. On the second day also the enquiry was conducted in the absence of all the concerned workmen except two. In the deposition of the first witness on 8th September, 1969 the following line appears to have been squeezed in between two paragraphs: "I recognised Deo Lal Singh and Muneswar". It is in different ink. It bears upon it the stamp of interpolation. The interpolation is very significant when we remember that Deo Lal and Muneswar are two of the workmen specifically mentioned in the list appended to the schedule to the Order of Reference. There are traces of similar interpolations in different ink in the deposition of the second witness. The following two lines appear to have been interpolated: (1) "I saw Chaturgun Singh, Tapsi Mahato, Chandradeo Sah, Sheo Lal Sah and Satya Narayan Singh" (2) Rameswar Singh, Muneshwar Singh, Babu Chand Dusadh and Janardan were there". It is needless to mention that all the persons mentioned in these two lines are also mentioned in the schedule to the Order of Reference. The following two lines in the deposition of the witness No. 3 appear to be interpolations: (1) "I saw Bulchand Dusad and Janardan" (2) "Khalila Raut, Gofor Sah, Chandradeo Singh, Deolal Singh, Bajinath Jadav, Rameswar Singh and Muneswar Singh". It is significant that all the names mentioned in these two lines except one are also mentioned in the schedule to the Order of Reference.

28. The enquiry of the first batch was resumed on 10th September, 1969 with these remarks by the enquiry officer: "Enquiry as scheduled is started. Lal Chand Shai and Gufar Shai are present. Jai Rani

Rewani is absent to-day". It may be mentioned that Gufar Shai is not one of the concerned workmen in the present reference. It is obvious that no intimation was given to the absentees as to the next date of enquiry. As many as seven witnesses deposed on behalf of the management. The following line has been interpolated in the deposition of the second witness of the day: "I saw Chaturgun Singh, Tapsi Mahato, Deolal Singh, Satya Narayan pointed in the deposition of the first witness. "I saw Chaturgun Singh, Sheolal Sah, Bajinath Jadav, Babu Chand Dusadh. All of them except Chaturgun Singh and Sheolal Sah are among the concerned workmen. Singh, Rameswar Singh, Janardan Bharan. All of them except one are among the concerned workmen. The following line has been interpolated in the deposition of the third witness of the day: "I saw Chandradeo Sah and he is one of the concerned workmen. The following line has been interpolated in the deposition of the fourth witness of the day: "I saw Khalila Raut and Satya Narayan Singh". Both of them are among the concerned workmen.

29. In view of the interpolations noted above in the recorded depositions of all the seven witnesses examined on 8th September, 1969 and 10th September, 1969 the proceedings of the enquiry as recorded by the enquiry officer cannot be taken at their face value. I am inclined to discard the entire record of the enquiry during these two days. The enquiry in respect of the second batch commenced on 10th September, 1969. Four of the concerned workmen were present at the enquiry, the rest were absent. It could not be finished on that day. It was resumed on 12th September, 1969 when only three of the concerned workmen were present. Five witnesses deposed on behalf of the management. Relevant names have been interpolated in different ink in the deposition of all the five witnesses. The enquiry officer held the enquiry in respect of the third batch of fifteen on 12th September, 1969. Only two of the chargesheeted workmen were present at the enquiry. The management examined six witnesses. Relevant names have been interpolated in the depositions of all the witnesses. I am not inclined to place any reliance on the proceedings of the enquiry in respect of the second and third batches as recorded by the enquiry officer.

30. On 12th September, 1969 Sri Parimal Banerjee one of the chargesheeted workmen examined himself. He said as follows: "On 28th April, 1969 I was at my quarters. My duty was to start from 4 P.M. to 12 A.M. I did not participate in the violence. I was not a member of the mob. I was not pulling well with Shri D. N. Singh the then Asst. Manager. I apprehend he might have reported against me". There was no cross-examination on behalf of the management. The enquiry officer in his report discarded his evidence on the ground that his defence was not supported by any evidence. He did not consider the effect of his not being cross examined by any one on behalf of the management.

31. Another chargesheeted workman, Jafar A i Mia also examined himself on 12th September, 1969. He said as follows: "On 28th April, 1969 I had gone home. I did not participate in the violence. I was not pulling well with Shri D. N. Singh. He had asked me to work in No. 2 pit but I did not agree. I apprehend he might have reported against me". There was no cross-examination. The enquiry officer in his report has summarily rejected his evidence by saying that the defence taken by him is not acceptable. He has not given any reason whatsoever. His attitude towards the defence evidence shows that he did not conduct the enquiry with an open mind.

32. The enquiry too was conducted in a perfunctory manner. There was no one present on behalf of the management to conduct the prosecution. The proceedings do not indicate who produced the witnesses

on behalf of the management. It appears that the witnesses deposed of their own accord without being asked any question as to the disturbance of 28th April, 1969 or as to the complicity of the chargesheeted workmen in the alleged disturbance. It is highly probable that the enquiry officer himself asked the witnesses to make their statements. In that case he played the role of the prosecution. If that be so it must be held that the enquiry was not properly held.

33. The chargesheeted workmen were divided into three batches and the enquiry took place on different dates. That gave rise to a peculiar situation. The first enquiry took place on 8th September, 1969 and was resumed on 10th September, 1969. The first witness on behalf of management on 8th September, 1969 was Shri K. K. Sharda, Colliery Engineer. On that day he did not say that the mob including the chargesheeted workmen caused damage to company's property. As to assault he merely said that he had heard that the violent mob had assaulted a number of employees. He had no personal knowledge. He said nothing as to the looting by the mob of all the belongings of many employees from their residential quarters. In short he left unsaid many of the allegations in the chargesheet. He was also examined on 10th September, 1969 at the enquiry in respect of the second batch. The slogans he attributed to the mob in his deposition on 8th September, 1969 were different from the slogans he put into the mouth of the mob in his deposition on 10th September, 1969. He said nothing on 8th September, 1969 about the throwing of stones by the mob. But on 10th September, 1969 he said that some persons 90 to 100 were also throwing stones and brickbats. He further said on 10th September, 1969 that the mob earlier looted the property of several workmen and assaulted them in their quarters. This he did not say on 8th September, 1969. On 8th September, 1969 he mentioned the names of eight persons in the mob and on 10th September, 1969 also he mentioned the names of eight persons in the mob. With the exception of three the rest are different. A truthful witness will say the same thing in respect of the same incident even if he is called upon to depose on different dates. It is very difficult to place reliance on the evidence of Sri K. K. Sharda, Colliery Engineer, who may be taken as the best of all the witnesses examined by the management at the three enquiries.

34. I may take another example. Shri Ram Awadh Ahir, Night Guard, MW2 before the enquiry officer deposed on both the days, 8th September, 1969 and 10th September, 1969. He gave a list of the names of the persons recognised by him on the first day, i.e. 8th September, 1969; he also gave a similar list on the second day i.e. 10th September, 1969. On the first day he mentioned fifteen names, on the second day he mentioned twenty seven names. Only seven names are common in both the lists. A truthful witness would have mentioned the same set of names on both the days, leaving aside minor discrepancies. It seems this witness was remembering names to suit the requirements of the management.

35. In the instant reference the concerned workmen are forty in number. A chargesheet was issued to each one of them. The allegations are identical in all the chargesheets. The relevant portion of the charge runs as follows: "On Monday, the 28th April, 1969 between 8-30 A.M. and 10-15 A.M. you along with a mob of about 200 persons armed with lathis, bhallas, pharsas, bows and arrows attacked and threw stones at our office, pit No. 1 and 2 and residential quarters and caused damage to company's property and assaulted the persons on duty, and staying in quarters, which resulted in the death of two persons and grievous injury to five others out of whom the condition of two is very precarious.

2. You along with others have also looted all the belongings of many employees from their residential quarters

3. You have, therefore, behaved in a fighting, riotous and disorderly manner....." The enquiry officer in his report dealt with the chargesheeted workmen individually. He started with Khalifa Routh, serial No. 1 in the Schedule to the Order of Reference. He has given the following reason for finding Khalifa Routh guilty: "During the *ex-parte* enquiry, .....Khalifa Routh has been named by Sri K. K. Sharda, Colliery Engineer, Sri Umrao Ahir and Sri Dharam Nath Singh as member of the violent mob which committed heinous crime on 28th April, 1969. The misconducts in the chargesheet have been satisfactorily proved against him". His recommendation was that he should be given the severest punishment. There was no finding that he carried deadly weapons or that he threw stones at the office or that he caused damage to company's property or that he assaulted the employees on duty or that he looted all the belongings of many employees from their residential quarters. The charge was not that he was a member of a violent mob. In the chargesheet he was described as taking a leading part in the various acts of violence mentioned therein. The evidence on record does not show that he took a leading part. The evidence also does not show that he committed the various acts of violence mentioned in the chargesheet. The witnesses also did not say in so many words that he was a member of a violent mob. He was only seen among the mob. One may be in the mob under different circumstances. One may go near the mob just to see what is the matter. The expression "member of a violent mob" does not convey any sense unless the motive of the person seen in the mob is known. Spectators, way-farers etc., attracted to the scene of rioting by curiosity, should not be by reason of their mere presence at the scene of rioting and with the rioters, held to be members of the unlawful assembly or rioters. All the witnesses merely said that they saw him, i.e. Khalifa Routh in the mob or that they recognised him. No body said anything as to his motive. So the enquiry officer was not justified in holding him guilty on such slender evidence. Moreover I have shown above that the witnesses are not reliable.

36. The enquiry officer dealt with the rest of the chargesheeted workmen in the same summary fashion. He found them guilty simply because their names were mentioned by some of the management's witnesses. In each case he recommended maximum punishment. It is highly improbable that all the chargesheeted workmen, more than forty in number, were guilty to the same extent. He did not try to ascertain who among the chargesheeted workmen took active part and who were mere sympathisers. All of them certainly did not deserve maximum punishment. He could have recommended lighter punishment for those, who, according to him played a passive role.

37. From the chargesheet it appears there was a serious rioting in the colliery on 28th April, 1969 resulting in the death of two persons and injuries to five persons. No evidence was led on the side of the management as to the genesis of this riot. It is not clear whether a section of the workmen flared up and took the law into their own hands without any provocation or whether they were provoked by any act of the management. The expression "mob of about 200 persons", to say the least, is extremely vague. Who were the members of the mob? Were they all workmen of the colliery or were they outsiders? If all of them were employees of the colliery, why were chargesheets issued only to 45 including the 40 involved in the present reference? The incident took place on 28th April, 1969 but all the chargesheets were dated 4th July, 1969; and they were issued more than two months after the incident. The delay has not been explained by the management. It is clear that the chargesheeted workmen and the workmen who deposed on behalf of the management belonged to opposite camps. This is also one of the reasons why their evidence should be carefully weighed before it is accepted. But the enquiry officer accepted their evidence as gospel truth without careful scrutiny.

38. The enquiry must have taken place under abnormal conditions. According to the enquiry officer notices could not be served on the chargesheeted workmen even by registered post. They were published in the "New Sketch" an English weekly. The workmen are mostly illiterate. At best they know Hindi. It is beyond comprehension why the notices were published in an English Weekly. They could have been published in any Hindi news paper having a wide circulation throughout the State of Bihar. The enquiry should have been held after the restoration of normal conditions in the colliery. The very fact that notices could not be served on the chargesheeted workmen excepting two or three indicates that there was no proper atmosphere for the holding of an impartial enquiry. It is not at all improbable that the management set the stage for holding an enquiry at a time when it would not be possible for the chargesheeted workmen to attend the enquiry.

39. Two persons were murdered and five persons were injured in the disturbance that took place on 28th April, 1969. First information report must have been submitted by the management to the police. Criminal cases must have been instituted against the workmen suspected to be responsible for murder and injury. There was not a whisper about these things before the enquiry officer. It cannot be ascertained from the materials before the Enquiry Officer whether the names of the chargesheeted workmen were included in the first information report. This hush policy on the part of the management indicates that the enquiry was not properly held. The charges being of a very serious nature, the management could have awaited the verdict of the criminal court before starting the enquiry.

40. From the above discussion it is clear that the enquiry was not properly held. In any case even the proceedings of the enquiry as recorded by the enquiry officer cannot be relied upon for the reasons already stated. The findings of the enquiry officer is based on practically no evidence. His findings that all the concerned workmen are guilty of heinous crime are wholly untenable. The chargesheeted workmen did not have full opportunity to defend themselves. The finding of the enquiry officer that the notices as to the venue, date and time of hearing were duly served are not supported by any evidence on record before the enquiry officer. I, therefore, hold that the findings of the enquiry officer are perverse and are not supported by any cogent evidence. The orders of dismissal based on such findings are liable to be set aside. I am therefore setting aside the orders of dismissal passed against the concerned workmen. As the orders of dismissal are being set aside the concerned workmen shall be deemed to be in continuous service without any break. They are also entitled to the wages in arrears till the date of their reinstatement.

41. The right, title and interest of the Management of New Dharmaband Colliery have vested in the Bharat Coking Coal Co. Ltd. with effect from the 1st of May, 1972; they by virtue of section 4 of the Coking Coal Mines (Nationalisation) Act, 1972. Section 17(1) of the said Act says that every person who is a workman within the meaning of the Industrial Disputes Act, and has been immediately before the 1st of May, 1972 in the employment of a Coking Mine shall become on and from the appointed day an employee of the Government Company. In the present case, the Bharat Coking Coal Co. Ltd., in which the right, title and interest of such mine have vested and shall hold service in the mine on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the rights in respect to such mine had not vested in Government Company. As the Order of dismissal was invalid the concerned workmen continued and still continue to be in the service of the Bharat Coking Coal Co. Ltd. since the 1st of May, 1972, and, therefore, the Bharat Coking Coal Co. Ltd. is bound to pay their wages including all

the emoluments to which they were entitled as from the 1st of May, 1972. For the period from the date of dismissal i.e. from the 18th October, 1969 to the 30th April, 1972 New Dharmaband Colliery was liable to pay their wages and other emoluments to which they were entitled. The Bharat Coking Coal Co. Ltd., as successor-in-interest of New Dharmaband Colliery, also became liable to pay the said wages for the said period, namely from October, 1969 to the end of April, 1972. A reference may be made in this connection to the decision of the Supreme Court in Bihar State Road Transport Corporation Vs. The State of Bihar and Others, 1970 (II) L.L.J. 138, on the question of liability discussed above.

42. It, therefore, follows that the reinstatement is to be made by the Bharat Coking Coal Co. Ltd., that was impleaded as a party to this Reference by an order passed by this Tribunal on 24th March, 1972. As to back wages and other emoluments from the 18th October, 1969 to the 30th April, 1972 both that is to say New Dharmaband Colliery as well as the Bharat Coking Coal Co. Ltd., are liable and their liability is joint and several.

43. I accordingly make the following award. The action of the management of New Dharmaband Colliery in dismissing the forty workmen mentioned in the Schedule with effect from the 18th October, 1969 is not justified. The said workmen are to be reinstated with continuity of service by the management for the time being, namely, the Bharat Coking Coal Company Ltd., and the said company shall be liable to pay their wages and other emoluments with effect from the 1st of May, 1972. The concerned workmen are also entitled to get their back wages from 18th October, 1969 to 30th April, 1972, and the management of New Dharmaband Colliery and the Bharat Coking Coal Co. Ltd., are jointly and severally liable to pay the same to the workmen concerned.

44. Let a copy of this award be forwarded to the Central Government for necessary action.

Sd/- A. C. SEN, Presiding Officer.

[No. 2/68/70 LR.II.]

**S.O. 2582.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkharkee, District Dhanbad and their workmen, which was received by the Central Government on the 12th September, 1972.

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 71 OF 1971

#### PARTIES:

Employers in relation to the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkharkee, District Dhanbad

AND

Their workmen

#### PRESENT.

Shri A. C. Sen, Presiding Officer.

#### APPEARANCES:

For the Employers—Shri S. S. Kapoor, Advocate.

For Bharat Coking Coal Ltd.—Shri J. N. P. Sahl, Labour & Law Adviser.

For the Workmen—Shri J. D. Lall, Vice-President, Bihar Colliery Kamgar Union,

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated, the 6th September 1972

## AWARD

The present reference arises out of Order No. L/2012/139/71-LRII, dated, New Delhi, the 27th October, 1971 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows:—

"Whether the action of the management of Madhuband Colliery of Messrs Oriental Coal Company Limited, Post Office Nudkurkee, District Dhanbad, in stopping the work of Shri Ahlad Napit, Bailing Mazdoor, with effect from the 21st February, 1971, is justified? If not, to what relief is the workman entitled?"

2. The dispute has been settled amicably out of Court by the parties concerned. A memorandum of settlement dated 5th September, 1972 has been filed. I have gone through the said memorandum and the terms contained therein are, in my opinion, vary fair and reasonable. I do not find any reason why an award should not be made on the basis of the terms and conditions laid down by the memorandum of settlement and I make my award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be forwarded to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd.) A. C. SEN,  
Presiding Officer.

BEFORE THE HON'BLE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(No. 1), AT DHANBAD

In the matter of:

REFERENCE NO. 71 OF 1971

PARTIES:

Employers in relation to Madhuband Colliery of M/s. Oriental Coal Co. Ltd.;

AND

Their workmen.

## Memorandum of Settlement

All the parties in the present proceedings have amicably settled the dispute involved in the present Reference on the terms hereinafter stated:

- (1) That Shri AHLAD NAPIT, Bailing Mazdoor, the workman concerned in the present Reference shall be reinstated by the management of Madhuband Colliery of M/s. Oriental Coal Co. Ltd. on and from 11th September, 1972 without any back wages.
- (2) That the period intervening from the date of stoppage of work (which gave rise to the present Reference) till the date of resumption of duty shall, for the purpose of continuity of services, be treated as leave without pay, but the workman concerned will be eligible to proportionate leave or quarterly bonus provided he puts in proportionate qualifying attendance during the remaining period of current year or current quarter, as the case may be.
- (3) In the event of the failure of the concerned workman to report for work within a fortnight from 11th September, 1972, the workman concerned shall have no right for re-employment etc. under this agreement.
- (4) The above terms finally resolve the dispute between the parties and, therefore, there is no subsisting dispute for adjudication in the present Reference.

(5) The parties shall bear their own cost of proceedings.

It is, therefore, prayed that the Hon'ble Tribunal may be pleased to accept this Settlement and to give its Award in terms thereof.

For the Employer.

(Sd.) Illegible  
Manager,  
Madhuband Colliery.

For the Workmen.

(Sd.) J. D. LALL,  
Vice-President,  
Bihar Colliery Kamgar  
Union.

For Bharat Coking Coal Ltd.

(Sd.) J. N. P. SAHI,  
Labour & Law Adviser,  
Bharat Coking Coal Ltd.

Presiding Officer,  
Central Industrial Tribunal-cum-Labour Court  
(No. 1), Dhanbad.

Dated 5th September, 1972.

(Sd.) A. C. SEN,  
Presiding Officer,  
Central Industrial Tribunal-cum-  
Labour Court (No. 1), Dhanbad.

[No. L/2012/139/71-LRII.]

New Delhi, the 18th September 1972

S.O. 2583.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Bararee Colliery of Messrs East Indian Coal Company Limited, Post Office Jealgora, District, Dhanbad and their workmen, which was received by the Central Government on the 12th September, 1972.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
NO. 3, DHANBAD

REFERENCE NO. 67 OF 1969

PRESENT:

Sri B. S. Tripathi, Presiding Officer, Central Government Industrial Tribunal No. 3, Dhanbad.

PARTIES:

Employers in relation to the Bararee Colliery of Messrs East Indian Coal Company Limited, Post Office Jealgora, District—Dhanbad.

AND

Their workmen—represented by the General Secretary, East India Coal Co. Workers' Union. P.O. Jealgora, District Dhanbad.

APPEARANCES:

For Employers—Sri S. S. Mukherjee, Advocate. Sri J. N. P. Sahi, Labour & Law Adviser represented the B.C.C. Ltd., who were added as a party to the reference as per order No. 21, dated 23-3-72.

For Workmen—Sri M. K. Sen Gupta, Advocate.

INDUSTRY: Coal.

STATE: Bihar

Dhanbad, dated the 2nd September, 1972

## AWARD

By order No. 2/145/69-LRII, dated the 27th September, 1969, the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment) referred the industrial dispute in respect of matters specified in the schedule of reference existing between above-mentioned parties under Section 10(1)(d) of the Industrial Disputes Act, 1947 to this Tribunal for adjudication. The schedule of reference is extracted below:—

"Whether the demand of the East Indian Coal Company Workers' Union, Post Office Jealgora (Dhanbad) for Grade II scale of pay as

per recommendations of the Coal Wage Board in respect of Shri Raghunandan Mandal, Attendance Clerk, for the period from the 15th August 1967 to 21st August, 1968 is justified? If so, to what relief the workman is entitled?"

2. The reference was received by the Tribunal on 10-10-69, when it was registered as Reference No. 67 of 1969. The industrial dispute was sponsored by East Indian Coal Co. Workers' Union and the said Union represented the workmen in the present proceeding. The written statement of the workmen was received in the Tribunal on 31-10-69 and the rejoinder-cum-written statement of the employers was received by the Tribunal on 14-11-69. In the meantime the management of the colliery in question vested in the Central Government under the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971 (Act 64 of 1971) and the Central Government appointed Bharat Coking Coal Limited, a Government Company, under sub-section (7) of Section 5 of the said Act as Custodian of that Colliery. Thus on the petition of the workmen the said Government Company was impleaded as a party to the reference as per order No. 21, dated 23-3-72. This said Company thereafter filed written statement on 24-4-72 adopting the written statement of the outgoing employer on merit.

3. The concerned workman is Sri Raghunandan Mandal. He is at present in the service of the colliery in question as an Attendance clerk. According to the reference the question for determination is whether the demand of the Union that Shri Raghunandan Mandal should get Grade II scale of pay according to the recommendation of the Coal Wage Board for the period from 15th August, 1967 to 21st August, 1968 is justified?

4. The case of the workmen is that the posts of the Lamp-room-in charge and Attendance Clerk are Grade II posts under the wage Board recommendation which was implemented from 15th August, 1967 and that the workman Sri Raghunandan Mandal had worked as a Lamp-room-in charge at the colliery from June, 1967 to 19th August, 1968 and thereafter on 21st August, 1968 he was posted as Attendance Clerk and as such the reference should be decided in favour of the workman.

5. According to the management as per recommendation of the Central Wage Board for Coal Mining Industry the Lamp-room-incharge and attendance clerks are placed in Clerical Grade II and since during the relevant period, i.e. from 15th August, 1967 to 21st August, 1968, Sri Raghunandan Mandal was not a Lamp-room-incharge, the question of placing him in Grade II or paying him the prescribed salary of that grade does not arise. It is alleged that the concerned workman was appointed as a Shale pricker in 1962 and he was promoted as Lamp Clerk (Issue and return) with effect from 1st November, 1964 and that according to the recommendation of the Central Wage Board for Coal Mining Industry the Lamp clerk (return & Issue) has been placed in clerical Grade III. The prayer accordingly is that it be decided that the demand of the workmen for Grade II scale of pay in respect of Sri Raghunandan Mandal for the relevant period is unjustified.

6. The only witness examined on behalf of the workmen is Sri Raghunandan Mandal (WW-1), the concerned workman, and the employers also have examined only one witness namely, Sri Upendra Prasad Sinha (MW-1), the Welfare Officer of the colliery in question. Both the parties have also filed documentary evidence. I shall refer to the oral & documentary evidence adduced by the parties in course of discussion, if and when necessity for the same arises.

7. It is the admitted case of both the parties that Lamp-rooms-incharge and Attendance Clerks are placed in Clerical Grade II as per recommendation of the Central Wage Board for Coal Mining Industry

which was implemented with effect from 15th August, 1967. This was also accepted by the representatives of the parties concerned at the time of argument. The relevant period for consideration in the present reference is from 15th August, 1967 to 21st August, 1968. From the Transfer Order Ext. M-3 dated the 20th August, 1968 it appears that Sri Raghunandan Mandal, the concerned workman was transferred as Attendance Clerk with effect from 21st August, 1968. The workmen also have relied upon this order and in support of it they have filed a copy of the said transfer order which is Ext. W-7. It is not the case of management or of the workmen that the concerned workman did not join his duty according to the said transfer order. Therefore for 21st August, 1968 Sri Raghunandan Mandal must get Grade II scale as per recommendation of the Central Coal Wage Board.

8. According to the written statement of the workmen Sri Raghunandan Mandal worked as a Lamp-room-incharge at the colliery from June, 1967, after the dismissal of Shri K. C. Roy Choudhury, Ex-Lamp-room-incharge, till 19th August, 1968 (vide para 1 of their written statement). The management in their written statement have denied the allegation regarding the appointment of Sri Raghunandan Mandal as Lamp room incharge at any time. However, the fact that Sri K. C. Roy Choudhury was previously Lamp-room-incharge in the colliery and he was dismissed from service is admitted by management's witness MW-1, Sri Upendra Prasad Sinha, the Welfare Officer. Ext. M-6 dated 28th June, 1967 is the letter of dismissal issued by the management to Sri K. C. Roy Choudhury intimating him that he was dismissed from service with effect from 29th June, 1967. This document has been admitted into evidence on the admission of the workmen. It must accordingly be held that Sri K. C. Roy Choudhury was dismissed from service from 29th June, 1967. From the evidence of WW-1 and MW-1 it will appear that in March, 1968 Sri A. N. Kulkarni was appointed as Lamp-room-incharge in the colliery for about two months and thereafter his services were terminated. WW-1 in cross-examination states that Sri Kulkarni was appointed Lamp-room-incharge for two months from 15th March, 1968 and according to the statement of MW-1 Sri Kulkarni was appointed as such from 18th March, 1968 till Sri P. K. Ghosh was appointed as Lamp-room-incharge from 24th May, 1968. The appointment letter Ext. M-7 dated 12th March, 1968 supports the statement of MW-1 that Sri Kulkarni was appointed as Lamp-room-incharge from 18th March, 1968. From the letter of Chief Mechanical Engineer of the colliery, to Sri Kulkarni Ext. M-8 dated 20th May, 1968 it appears that by this letter Sri Kulkarni was informed that his services would not be required from 23rd May, 1968. The workmen do not challenge the correctness of statements in letters Exts. M-7 & M-8 stated above, nor do they allege that the orders contained therein were not given effect to. On the evidence on record I find that Sri A. N. Kulkarni was the Lamp-room-incharge of the colliery from the 18th March, 1968 to 23rd May, 1968. The concerned workman WW-1 has made different statements in cross-examination in order to show that even during the period Sri Kulkarni was Lamp-room-incharge he was also the Lamp-room-incharge of the colliery, though at first he stated that during the period he was on leave Sri Kulkarni was the Lamp-room-incharge. WW-1 states at first that he returned on leave on 17th March 1968 and since thereafter he worked as Junior Lamp-room-incharge and Sri Kulkarni worked as Senior Lamp-room-incharge. Then he states that Sri Kulkarni remained Lamp-room-incharge of the colliery in question as before. Apart from the apparent inconsistencies in the aforesaid statements of WW-1, there is no evidence, oral or documentary, nor any circumstance in support of any one of those statements. It is therefore not safe to act on the said testimony of WW-1 and I leave the same out of consideration.

At this place reference may be made to two sets of documents filed by the management. They are Exts.



M-13 to M-15 and Exts. M-16 to M-18. These documents relate to Departmental proceeding drawn up against the workman Sri Raghunandan Mandal on two different occasions in 1968. Ext. M-13 is the chargesheet dated 8th May, 1968 issued to the said workman, Ext. M-14 is the explanation to the chargesheet submitted by him and Ext. M-15 is the final order passed on 22nd July, 1968 according to which the order of suspension of the workman from 6th May, 1968 to 16th May, 1968 was confirmed and he was also warned. In all these documents Sri Raghunandan Mandal has been described as Lamp clerk and not Lamp-room-incharge. Sri Mandal in his explanation Ext. M-14 describes himself as Lamp clerk and has stated in the explanation itself that he was working as Lamp clerk. Similarly Ext. M-16 is the chargesheet dated 31st May, 1968, Ext. M-17 is the explanation of the concerned workman dated 13th June, 1968 and Ext. M-18 is the letter of the colliery manager dated 11th July, 1968 to Sri Raghunandan Mandal, the concerned workman, communicating him the punishment awarded to him in the proceeding. In all the said documents also the concerned workman has been described as Lamp clerk. In his explanation Ext. M-17 also the workman himself states that he was Lamp clerk and not Lamp-room-incharge. It is to be noted that Exts. M-13 to M-18 are undisputed documents. These documents falsify the claim of the workmen that Sri R. N. Mandal was Lamp-room-incharge at least during the period covered by these documents. It is the admitted case of both the parties that the concerned workman Sri R. N. Mandal was the Lamp clerk, which was a grade III post, before the period in question. From the office order dated 11th November 1964 Ext. M-2 it appears that this workman was promoted as Lamp Clerk and was placed in clerical Grade III with effect from 1st November, 1964. According to the workmen, however, Sri R. N. Mandal worked as Lamp-room-incharge during the relevant period and from the date of dismissal of Sri K. C. Roy Choudhury and according to the management Sri R. N. Mandal never worked as Lamp-room-incharge till he was made attendance clerk with effect from 21st August, 1968. There is no documentary evidence nor any reliable oral evidence to prove that the said clerk worked as Lamp-room-incharge or held any post in the scale of Grade II at any time after the period covered by Exts. M-13 to M-18, referred to above.

9. In view of the oral and documentary evidence, discussed above, I hold that the concerned workman Sri Raghunandan Mandal did not work as Lamp-room-incharge nor he worked in any Grade II post from 18th March, 1968 to 20th August, 1968 and that on 21st August, 1968 he worked as Attendance clerk which is a Grade II post.

10. According to the case of the workmen since after the dismissal from service of Sri K. C. Roy Choudhury, Sri R. N. Mandal had been working as Lamp-room-incharge. I have held above that the services of Sri K. C. Roy Choudhury were terminated with effect from 29th June, 1967. In the written statement of the management no definite case has been made out as to how the work of Lamp-room-incharge was being managed after the dismissal of Sri K. C. Roy Choudhury, though there is a general statement by way of denial to what is alleged in the written statement of the workmen. At the time of hearing the management in the evidence of MW-1 made out a case for the first time to the effect that after the termination of the services of Sri Roy Choudhury and before the appointment of Sri Kulkarni the Lamp clerks including Sri R. N. Mandal used to manage the work of the Lamp-room-incharge. I have already found that Sri Kulkarni was appointed as Lamp-room-incharge from 18th March, 1968. The evidence of MW-1 is that during the relevant time there were three Lamp clerks, one working in each shift out of three shifts in a day and they were managing the work of Lamp-room-incharge. The witness does not say which clerk was incharge of Lamp-room-incharge

for which period. Not a single document has been filed to show that during the said period any person other than Sri R. N. Mandal worked as such. MW-1 in cross-examination states that attendance registers maintained in the colliery will show who worked as Lamp-room-incharge for what period, but the management has not filed the said attendance registers, though they are in their custody, to prove that any person other than Sri R. N. Mandal had worked as Lamp-room-incharge. I do not, in the aforesaid circumstances, accept the statement of MW-1 that other Lamp clerks besides Sri R. N. Mandal worked as Lamp-room-incharge during the period said above.

11. The fact however remains, in view of the evidence of MW-1, that even according to Management's case Sri R. N. Mandal had worked as Lamp-room-incharge after the dismissal of Sri Roy Choudhury and before the appointment of Sri Kulkarni. The question that still remains to be decided is whether Sri R. N. Mandal worked as such during the whole period aforesaid or during any part of it. The oral evidence of the concerned workman (WW-1) is that he worked as Lamp-room-incharge for the whole period. In this connection reference may be made to some undisputed documents filed by the workmen and they are Exts. W-1 to W-6. These are letters of the manager of the colliery in question and are dated 23rd September, 1967, 29th September, 1967, 22nd January, 1968, 21st February, 1968 and 2nd March, 1968 respectively. The letters Exts. W-1 and W-2 were in connection with the loss of a cap lamp and they were addressed to Sri Raghunandan Mandal as Lamp Cabin incharge by the Manager of the colliery himself. It appears that on another occasion there was Departmental enquiry against Sri P. K. Ghosh, Lamp Clerk and the manager of the colliery directed, as per his letter dated 22nd January, 1968 Sri P. K. Ghosh to attend the enquiry with witnesses on 24th January, 1968 and a copy of the same Ext. M-3 was forwarded to Sri Raghunandan Mandal with a direction to attend the enquiry and in that he was described as Lamp Cabin incharge. It appears that there was another enquiry against Sri Raghunandan Mandal regarding loss of cap lamps and the colliery manager, in his letter Ext. W-4 dated 22nd January, 1968 asked him to attend the enquiry on 7th February, 1968 with witnesses. In this letter also Sri Raghunandan Mandal was described as Lamp Cabin incharge. The letter Ext. W-5 relates to defects found in course of inspection of lamp cabin by Oldham Service Engineer and the manager of the colliery sent a copy of it to Sri Raghunandan Mandal describing him as Lamp Cabin incharge and asking him to explain as to why disciplinary action shall not be taken against him (vide Ext. M-5 dated 21st February, 1968). The letter Ext. W-6 dated 2nd March, 1968 was addressed to Mr. M. C. Loader and a copy was sent to Lamp Cabin incharge. It has been produced from the custody of Sri R. N. Mandal. From the above documents it becomes apparent that the management from September, 1967 to March, 1968 on different occasions admitted that Sri Raghunandan Mandal had been working as Lamp Cabin-incharge, or Lamp-room-incharge of the colliery in question. Coupled with this we have the oral evidence of the workman concerned that since after the dismissal of Sri Roy Choudhury and before the appointment of Sri Kulkarni he was working as Lamp-room-incharge and the absence of any reliable evidence on the side of the management that any other person was working as such during the said period. All these taken together lead me unmistakably to hold that during the said period i.e. from 29th June, 1967 to 17th March, 1968 Sri Raghunandan Mandal had worked as Lamp-room-incharge. The management has filed documents Exts. M-10 to M-18 relating to a Departmental proceeding against Sri Raghunandan Mandal in which he has been described as Lamp clerk and not Lamp clerk incharge or Lamp Cabin incharge. All these relate to an occurrence prior to 3rd May, 1968 when admittedly Sri Raghunandan Mandal was not working as Lamp-room-incharge. The said documents therefore do not disprove the above case of the workmen.

12. It comes to this, therefore, that out of the relevant period in the reference i.e. from 15th August, 1967 to 21st August, 1968, Sri Raghunandan Mandal, the concerned workman, worked as Lamp-room-in-charge from 15th August, 1967 to 17th March, 1968 and on 21st August, 1968 he worked as Attendance clerk and therefore he is entitled to Grade II scale of pay for the periods said above. He did not work as Lamp-room-in-charge or did not hold any Grade II post during the remaining period i.e. from 18th March, 1968 to 20th August, 1968 and is not, therefore, entitled to Grade II scale of pay.

13. Accordingly I answer the reference as follows:—

The demand of the East India Coal Workers' Union, Post Office Jealgora (Dhanbad) for Grade II post scale of pay as per recommendation of the Coal Wage Board in respect of Sri Raghunandan Mandal, Attendance Clerk, for the period from 15th August, 1967 to 17th March, 1968 and for 21st August, 1968 is justified and for the said period Sri Raghunandan Mandal will get Grade II scale of pay according to the recommendation of the Central Wage Board for Coal Mining Industry minus the pay which he might have got for the said period. The demand of the said Union for Grade II scale of pay of the said workman for the remaining period i.e. from 18th March, 1968 to 20th August, 1968 is not justified and the workman is not entitled to any relief with respect to his pay for that period.

14. This is my award. Let the award be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) B. S. TRIPATHI,  
Presiding Officer.

[No. 2/145/69-LRII.]

KARNAIL SINGH, Under Secy.

**(Department of Labour and Employment)**

New Delhi, the 12th September 1972

S.O. 2584.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal at Calcutta, in the industrial dispute between the employers in relation to the management of Messrs Peters and Smith (India) Private Limited, Calcutta and their workmen, which was received by the Central Government on the 5th September, 1972.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA**

REFERENCE No. 96 OF 1971

**PARTIES:**

Employers in relation to the management of Messrs Peters & Smith (India) Private Limited, Calcutta,

AND

Their workmen.

**PRESENT:**

Sri S. N. Bagchi, Presiding Officer.

**APPEARANCES:**

On behalf of Employers.—Sri N. C. Das Sharma, Advocate.

On behalf of Workmen—Absent.

STATE: West Bengal

INDUSTRY: Port & Dock.

**AWARD**

By Order No. 72/29/70-P&D, dated 28th July, 1971, the Government of India, in the Ministry of Labour and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute existing between the employers in relation to the management of Messrs Peters & Smith (India) Private Limited, Calcutta and their workmen, to this Tribunal, for adjudication, namely:

"Whether the workmen engaged by Messrs Peters and Smith (India) Private Limited, Calcutta, are justified in claiming the time scales as given below and dearness allowance at the rate prescribed by the Bengal Chambers of Commerce and Industry.

If so, from which date? If not, to what scales/dearness allowance are they entitled and from what date?

Grade I—(Accounts Clerks, Stenographers, Senior Licence Sirkars and Senior Office Clerks) Rs. 250—10—300—15—420—20—500—25—600.

Grade II—(Licence Sirkars, Godown Keepers, Typists etc.) Rs. 225—10—305—15—425—20—505.

Grade III—(Peons/Watermen/Mazdoor, etc.) Rs. 165—4—189—5—214—6—226—7—240.

For Drivers: Rs. 200—10—250—15—340.

2. Whether the benefit of Gratuity should be available to the workmen? If so, to what extent and from what date?

3. Whether the following benefits should be made available to the workmen? If so to which categories, to what extent and from what date?

(i) Uniforms—Summer and Winter.

(ii) Umbrellas."

2. The notices though not necessary under Rule 10(1) of the Industrial Disputes (Central) Rules, 1957, were issued to both the parties by this tribunal on 24th August, 1971 calling upon them to file their respective statement of cases. The management and the Union representing the cause of the workmen received the notice of reference on 24th September 1971 and 1st October 1971, respectively. Since then neither party took any step. On 31st July 1972 notices were issued upon the parties informing that 16th August 1972 was fixed for fixing a date of hearing. On 16th August 1972 Sri N. C. Das Sharma, Advocate, appeared for the management but nobody appeared on behalf of the union. The case was fixed for peremptory hearing on 30th August 1972. On 29th August 1972 at about 3-30 p.m. the management filed a statement of case without showing cause of the inordinate delay in filing the same. The statement of case was placed for consideration to-day when the management turned up through its learned Advocate Sri Das Sharma but none appeared for the union although notice of the date fixed for peremptory hearing had been duly served per registered post on the Union. By an order of to-day's date I had to reject the written statement of the management as no cause for the inordinate delay in filing the same was filed. The union did not turn up. So there is no statement of case of the parties before this tribunal. Since the union espousing the cause of the workmen did not care to turn up during a period of one year, the tribunal considers that there is no dispute in regard

to the matters referred to this tribunal for adjudication. Accordingly the tribunal records a "no dispute" award.

This is my award.

Dated August 30, 1972.

(Sd.) S. N. BAGCHI,  
Presiding Officer.

[No. 72/29/70-P&D.]

New Delhi, the 13th September 1972

S.O. 2585.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay in the matter of complaints filed under section 33A of the said Act, by (1) Shri Tulsidas M. Corjuekar, (2) Shri K. L. Seth, (3) Shri Saba Jambo Morjo, (4) Shri Laxman Chodankar, (5) Shri R. S. Naik, (6) Shri J. C. Naik, (7) Shri G. C. Naik, (8) Shri Vasudeo Prab and (9) Shri S. V. Fotto, against the management of Messrs Lima Leitao & Company Limited, Mormugao, Goa, which was received by the Central Government on the 5th September 1972.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

COMPLAINT No. CGIT-4 OF 1969

PARTIES:

Shri Tulsidas M. Corjuekar—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-5 OF 1969

PARTIES:

Shri K. L. Seth—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-6 OF 1969

PARTIES:

Shri Saba Jambo Morjo—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-7 OF 1969

PARTIES:

Shri Laxman Chodankar—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-8 OF 1969

PARTIES:

Shri R. S. Naik—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-9 OF 1969

PARTIES:

Shri J. C. Naik—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-10 OF 1969

PARTIES:

Shri G. C. Naik—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-11 OF 1969

PARTIES:

Shri Vasudeo Parab—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

COMPLAINT No. CGIT-12 OF 1969

PARTIES:

Shri S. V. Fotto—Complainant.

Vs.

M/s. Lima Leitao & Co. Ltd., Mormugao, Goa—Opp. Party.

PRESENT:

Shri A. T. Zambre, Presiding Officer.

APPEARANCES:

For the Complainants.—Shri Mohan Nair, General Secretary, Goa Dock Labour Union.

For the Opposite Party.—Shri M. Da Lima Leitao.

STATE: Union Territory of Goa.

INDUSTRY: Stevedoring.

Bombay, dated 16th August 1972

AWARD

These nine complaints have been filed by the nine employees of the respondent under section 33A of the Industrial Disputes Act contending that in terminating their services the employers have contravened the provisions of section 33 of the Industrial Disputes Act and they were entitled to be reinstated on adjudication upon the complaints and the circumstances giving rise to these complaints may be stated in brief as follows:—

2. The respondents M/s Lima Leitao & Co. Ltd., Mormugao are registered employers under the Mormugao Dock Labour Board and have also been issued stevedoring licence by the Port Trust. They own two launches and the nine complainants form the crew of the two launches. The complainants have alleged that a dispute regarding their pay scales was referred to the Industrial Tribunal by Government under their order No. 28(136)67-LR/II dated 27th July, 1968. The dispute was pending and the employers have terminated their services during the pendency of these proceedings and have contravened the provisions of section 33(1)(b) of the Industrial Disputes Act. They have further contended that payment of dearness allowance and interim relief as per the recommendations of the Central Wage Board for Port Dock Workers was also one of the demands referred for adjudication in the dispute. But on the 23rd December, 1968 the employers had settled and agreed to implement the recommendations of the Wage Board with effect from 1st July, 1967 and had signed a settlement. They were not given the slightest idea that their services would be terminated within a week and the employers had terminated their services by retrenchment on the plea of having no work from 31st December, 1968. The termination was mala fide and the employers had contravened the provisions of section 33(1)(b) during the pendency of the proceedings. Hence they have filed these complaints praying that the termination be set aside and their services be reinstated with all benefits.

3. The employers have by their reply denied the allegations and have contended that the motor launches

on which the applicants were working have been accruing recurring losses to the company since 1963 either by virtue of very little work or by constant breakdown requiring constant replacement of costly spare parts and heavy maintenance costs. Neither a registered employer of the Mormugao Dock Labour Board nor a stevedore has to engage launch crew in their establishment and hence under the circumstances the employers were not in a position to maintain the crew of the launches due to lack of finance and the only solution for the company was to close down the launch section completely from the financial year 1969 and therefore they have discontinued the operation of the launches. They have denied the allegations about *mala fides* and have contended that there had been a *bona fide* retrenchment of the crew of the motor launches. The complainants were also paid compensation notice pay and all their dues and as the complainants have been retrenched for reasons of recurring financial losses there is no question of any breach of the provisions of section 33. There is no question of dismissal or termination of service by way of penalty for misconduct and the complaints are not maintainable and they are not entitled to any relief. Along with the written statement the company has annexed a summary of the work done by the respective launches and the auditor's certificate and the recurring losses for the past five years.

4. The complaints have been pending since 1969 and were required to be adjourned for one reason or the other. The nine complaints involve common questions of law and fact. In fact they are against the same management by the employees of the same category and the all complaints are also having the same contents. They were consolidated and were fixed for hearing together and are being dealt with by this common award.

5. The complaints were fixed for hearing on many occasions but they could not be heard. Even during this hearing the complainants had not kept their witnesses present and asked for time for a day. Though the other side had objected, considering the circumstances the application was granted. Subsequently the complainants thought it proper not to proceed with these complaints as there was another dispute between the same parties pending before another Industrial Tribunal. Shri Mohan Nair representing all the complainants has given a promise that though the complainants had prayed for time to examine some witnesses as the same complaints were also covered by another reference pending before the Central Government Industrial Tribunal No. 2, Bombay and it was regarding the same retrenchment they should be permitted to withdraw the complaints. The other side had pressed for costs but as the reference referred was made subsequent to these complaints the application for withdrawal was granted without costs.

6. The complainants have in their complaints merely stated that the employers have contravened the provisions of section 33(1)(b) of the Industrial Disputes Act. It is not in dispute that this section can be invoked only when the dismissal or discharge or termination of service of the employee is for misconduct connected with the dispute. There were no allegations to this effect and the complainants had merely contended that the retrenchment was *mala fide*. It is an admitted fact that a reference regarding the dispute between the same parties about retrenchment is pending before another industrial tribunal and it was quite proper for the complainants to apply for withdrawal of these complaints. As the complainants do not wish to proceed with the complaints they are dismissed for want of prosecution and hence my award accordingly.

No order as to costs.

7. Let this award be submitted to the Central Government under section 33A of the Act.

(Sd.) A. T. ZAMBRE,  
Presiding Officer,  
Central Government Industrial Tribunal,  
Bombay.

[No. L-36014/1/72-P&D.]

## ORDERS

New Delhi, the 13th September, 1972

**S.O. 2586.**—Whereas an industrial dispute exists between the employers in relation to the management of the Calcutta Port Commissioners and their workmen represented by the National Union of Waterfront Workers;

And, whereas, the said employer and their workman have, by a written agreement under sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), agreed to refer the said dispute to arbitration and have forwarded to the Central Government, under sub-section (3) of section 10A of the said Act, a copy of the said arbitration agreement.

Now, therefore, in pursuance of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said agreement, which was received by it on the 2nd September, 1972.

### *Agreement under Section 10A of the Industrial Disputes Act, 1947*

#### BETWEEN:

#### NAME OF THE PARTIES:

*Representing Employers*—Shri T. R. Raghupathi,  
Secretary, Commissioners for the Port of Calcutta.

*Representing Workmen*—Shri Janaki Mukherjee,  
General Secretary, National Union of Waterfront Workers.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri A. N. Roy, Regional Labour Commissioner (Central) Calcutta.

- (i) *Specific matter in dispute*—Whether the claim of Shri Sitaram Bhikaji Makhale for seniority over Shri Babaji Raghunath Juwaker both Lascars I, working in the establishment of Superintendent Dry Docks under Director, Marine Department, on grounds of age is justified? If so, what relief he is entitled to?
- (ii) *Details of the parties to the dispute including the name and address of the establishment or undertaking involved*—The Employers in relation to the Commissioners for the Port of Calcutta, 15, Strand Road, Calcutta-1 and their workmen represented by the National Union of Waterfront Workers, 15, Coal Dock Road, Calcutta-43.
- (iii) *Name of the workman in case he himself is involved in the dispute or the name of the union, if any, representing the workman or workmen in question*—National Union of Waterfront Workers, 15, Coal Dock Road, Calcutta-43.
- (iv) *Total number of workmen employed in the undertaking affected*—42,000 approximately.
- (v) *Estimated number of workmen affected or likely to be affected by the dispute*—2.

The Arbitrator shall make his award within a period of six months or within such further time as if extended by mutual agreement between us in writing.

In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

*Signature of the Parties:*

Representing Employers

(Sd.) T. R. RAGHUPATHI, Secy.  
Commissioners for the Port of Calcutta.

Representing Workmen

(Sd.) JANAKI MUKHERJEE,  
General Secretary,  
National Union of Waterfront Workers.

Witnesses:

(Sd.) DAS GUPTA.

(Sd.) D. CHAKRABORTY.

[No. L-32013/1/72-P&D.]

(श्रम और रोजगार विभाग)

आदेश

नई दिल्ली, 13 सितम्बर, 1972

का० आ० 2586.—यतः कलकत्ता पोर्ट कमिश्नर के प्रबन्ध से सम्बद्ध नियोजकों और उनके कर्मकारों, जिनका प्रतिनिधित्व नेशनल यूनियन आफ वाटर फ्रंट वर्कर्स, करती है, के बीच एक औद्योगिक विवाद विद्यमान है।

और यतः उक्त नियोजकों और कर्मकारों ने औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 19क की उपधारा (1) के अधीन एक लिखित करार द्वारा इस विवाद के माध्यस्थता के लिए निर्देशित करने का करार कर लिया है और उक्त माध्यस्थता करार की एक प्रति उक्त अधिनियम की धारा 10क की उपधारा (3) के अधीन केन्द्रीय सरकार को भेजी है ;

अतः, अब, उक्त अधिनियम की धारा 10क की उपधारा (3) के अनुसरण में केन्द्रीय सरकार उक्त माध्यस्थता करार को जो उसे 2 सितम्बर, 1972 को मिला था, एतद्वारा प्रकाशित करती है।

औद्योगिक विवाद अधिनियम, 1947 की धारा 10क के अधीन करार

**पक्षकारों के नाम**

नियोजकों का प्रतिनिधि : श्री टी० आर० रघुपति, सचिव,  
कलकत्ता पत्तन के आयुक्त।

कर्मकारों का प्रतिनिधि : श्री जानकी मुखर्जी, महासचिव।  
नेशनल यूनियन आफ वाटर  
फ्रंट वर्कर्स।

पक्षकारों के बीच एतद्वारा करार किया जाता है कि निम्न-लिखित विवाद श्री ए० एन० राय, प्रादेशिक श्रम आयुक्त (केन्द्रीय) कलकत्ता के माध्यस्थता को निर्दिष्ट किया जाए।

- (i) विवाद अस्त विनिर्दिष्ट विषय : क्या श्री सीताराम भीखाजी मखले वा श्री बाबाजी रघुनाथ जुवात्कर के अपर, जो कि दोनों निदेशक, मम्द्री विभाग; के अन्तर्गत अधीक्षक इर्द डाक के स्थापन में काम कर रहे हैं, ज्येष्ठता के लिए आयु के आधार पर दावा न्यायोचित है? यदि हाँ, तो वह किस अनुतोष का हकदार है?

- (ii) विवाद के पक्षकारों के व्यौरे जिसमें अन्तर्वलित स्थापन और उपक्रम का नाम और पता भी सम्मिलित हैं : कलकत्ता पत्तन के आयुक्त, 15, स्ट्राण्ड रोड, कलकत्ता-1 से सम्बद्ध नियोजकों और उनके कर्मकार जिनका प्रतिनिधित्व नेशनल यूनियन आफ वाटर फ्रंट वर्कर्स, 15 कोल डाक रोड, कलकत्ता 43 करती है।

- (iii) कर्मकार का नाम यदि वह स्वयं विवाह में अन्तर्वलित है या प्रपन्न गत कर्मकार या कर्मकारों का प्रतिनिधित्व करने वाली यूनियन का नाम, यदि कोई हो : नेशनल यूनियन आफ वाटर फ्रंट वर्कर्स, 15, कोल डाक रोड, कलकत्ता-43।

- (iv) प्रभावित उपक्रम में नियोजित कर्मकारों की कुल संख्या : लगभग 42,000

- (v) विवाद से प्रभावित या संभावित : प्रभावित होने वाले कर्मकारों की प्राक्कलित संख्या : 2

माध्यस्थ अपना पंचाट छह मास के भीतर या और समय के भीतर देगा जो हमारे बीच लिखित में पारस्परिक करार द्वारा विस्तारित किया जाए। यदि पंचाट उपरवर्णित अवधि के भीतर नहीं दिया गया तो माध्यस्थता के प्रति निर्देश स्वतः रद्द हो जाएगा और हम नये माध्यस्थता के लिए बातचीत करने को स्वतन्त्र होंगे।

नियोजकों के प्रतिनिधि : पक्षकारों के हस्ताक्षर टी० आर० रघुपति, सचिव, कलकत्ता पत्तन के आयुक्त।

कर्मकारों का प्रतिनिधि : जानकी मुखर्जी, महासचिव, नेशनल यूनियन आफ वाटर फ्रंट वर्कर्स।

साक्षी : हस्ताक्षर

1. दास गुप्ता

2. डी० चक्रवर्ती।

[सं० एल०-320/3/1/72-पी० एण्ड डी०]

New Delhi, the 14th September 1972

S.O. 2587.—Whereas an industrial dispute exists between the employers in relation to the management of the Calcutta Port Commissioners and their workman as represented by the National Union of Waterfront Workers;

And, whereas, the said employer and their workman have, by a written agreement under sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), agreed to refer the said dispute to arbitration and have forwarded to the Central Government, under sub-section (3) of section 10A of the said Act, a copy of the said arbitration agreement;

Now, therefore, in pursuance of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said agreement which was received by it on the 6th September, 1972.

*Agreement under section 10A of the Industrial Disputes Act, 1947.*

**BETWEEN:**

*Name of the parties:*

**Representing Employers.**—Shri T. R. Raghupathi, Secretary, Commissioners for the Port of Calcutta.

**Representing Workmen.**—Shri Janaki Mukherjee, General Secretary, National Union of Waterfront Workers.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri A. N. Roy, Regional Labour Commissioner (Central), Calcutta.

- |  |  |
|--|--|
| (i) Specific matters in dispute  | Whether the claim of Shri R.N. Saha, Lascar, for promotion to the post of Seacunny of M. L. 'Investigator' is justified?   |
| (ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.                                    | The Employers in relation to the Commissioners for the Port of Calcutta, 15-Strand Road, Calcutta-1 and their workmen represented by the National Union of Waterfront Workers, 15-Coal Dock Road, Calcutta-43. |
| (iii) Name of the workman in case he himself is involved in the dispute or the name of the union, if any, representing the workman or workmen in question. | National Union of Waterfront Workers, 15- Coal Dock Road, Calcutta-43.   |
| (iv) Total number of workmen employed in the undertaking affected.   | 42,000 approximately.  |
| (v) Estimated number of workmen affected or likely to be affected by the dispute.  | 2  |

The arbitrator shall make his award within a period of six months or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

**Signature of the Parties**

**Representing Employers:**

Sd./- T. R. RAGHUPATHI, Secy.  
Commissioners for the Port of Calcutta.

**Representing Workmen:**

Sd./- JANAKI MUKHERJEE, Genl. Secy.  
National Union of Waterfront Workers.

**Witnesses:**

- (i) (Sd.) DAS GUPTA.  
(ii) (Sd.) D. CHAKRABORTY.

[No. L-32013/2/72-P. & D.]

V. SANKARALINGAM, Under Secy.

नई दिल्ली, 14 सितम्बर, 1972.

का० आ० 2587.—प्रतः कलकत्ता पोर्ट कमिशनर के प्रबन्ध से सम्बद्ध नियोजकों और उनके कर्मकारों, जिनका प्रतिनिधित्व नेशनल यूनियन आफ वाटर-फ्रंट वर्क्स, करती है, के बीच एक औद्योगिक विवाद विद्यमान है ;

और यतः उक्त नियोजकों और उनके कर्मकारों ने औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 10क की उपधारा (1) के अधीन एक लिखित करार द्वारा इस विवाद के माध्यस्थ को निर्देशित करने के लिए कर लिया है और उक्त माध्यस्थ करार की एक प्रति उक्त अधिनियम की धारा 10क की उपधारा (3) के अधीन केन्द्रीय सरकार को भेजी है ;

अतः, अब, उक्त अधिनियम की धारा 10 क की उपधारा (3) के अनुसरण में केन्द्रीय सरकार उक्त माध्यस्थ करार को जो उसे 6 सितम्बर 1972 को मिला था, एतद्द्वारा प्रकाशित करती है।

औद्योगिक विवाद अधिनियम, 1947 की धारा 10क के अधीन करार

पक्षकारों के नाम :

नियोजकों के प्रतिनिधि

श्री टी० आर० रघुपति सचिव,  
कलकत्ता पत्तन के आयुक्त

कर्मकारों के प्रतिनिधि

श्री जानकी मुखर्जी  
महामन्त्रि,  
नेशनल यूनियन आफ वाटर-  
फ्रंट वर्क्स

पक्षकारों के बीच एतद्द्वारा करार किया जाता है कि निम्न-लिखित विवाद श्री ए० एम० राय, प्रादेशिक श्रम आयुक्त (केन्द्रीय) कलकत्ता के माध्यस्थ को निर्देशित किया जाए :—

- (i) विवादग्रस्त विनिर्दिष्ट विषय क्या श्री आर० एन० साहू लस्कर का एम० एल० अन्वेषक पर सीकवी के पद पर प्रोन्नति के लिए दावा न्यायोचित है ?

- (ii) विवाद के पक्षकारों के बीच जिनमें अन्तर्निहित स्थापन या उपक्रम का नाम और पता भी सम्मिलित है। कलकत्ता पत्तन के आयुक्तों 15, स्ट्रान्ड रोड, कलकत्ता-1 से सम्बद्ध नियोजक और उनके कर्मकार जिनका प्रतिनिधित्व नेशनल यूनियन आफ वाटर-फ्रंट वर्क्स, 15, कोल डाक रोड, कलकत्ता-43 द्वारा किया गया है।

(iii) कर्मकार का नाम यदि नेशनल यूनियन आफ वाटर-वह स्वयं विवाद में अन्त-फ्रंट वर्कर्स, 15-कोल डाक-वर्लित है या संघ का नाम, रोड, कलकत्ता-43, यदि कोई हो, जो प्रश्नगत कर्मकार या कर्मकारों का प्रतिनिधित्व कर रहा हो।

(iv) प्रभावित उपक्रम में नियोजित कर्मकारों की कुल संख्या लगभग 42,000

(v) विवाद में प्रभावित या संभाव्यतः प्रभावित होने वाले कर्मकारों की प्राक्कलित संख्या 2

माध्यस्थ अपना पंचाट छह मास की अवधि के भीतर या ऐसे और समय के भीतर देगा जो हमारे बीच लिखित पारस्परिक करार द्वारा विस्तरित किया जाए। यदि पंचाट उपरिर्णित अवधि के भीतर नहीं दिया जाता है तो माध्यस्थ के प्रति निर्बेण स्वतः रुद्द हो जाएगा और हम नये माध्यस्थ के लिए बात-चीत करने के लिए स्वतन्त्र होंगे।

पक्षकारों के हस्ताक्षर

नियोजकों के प्रतिनिधि टी० आर० रघुपति  
सचिव,  
कलकत्ता पत्तन के आयुक्त  
कर्मकारों के प्रतिनिधि जानकी मुखर्जी  
महामन्त्रि,  
नेशनल यूनियन आफ वाटर-फ्रंट वर्कर्स।

साक्षी : हस्ताक्षर

(i) दास गुप्ता

(ii) डी० चक्रवर्ती

तारीख:- 18-2-1972

[संख्या एल० 32013/2/72-पी० एण्ड डी०]

बी० शंकरालिंगम,

अवर सचिव।

(Department of Labour and Employment)

New Delhi, the 12th September, 1972

S.O. 2588.—Whereas the Central Government, being satisfied that the public interest so required, had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 1225, dated 10th March, 1972] the

Copper mining industry to be a public utility service for the purposes of the said Act for a period of six months from the 25th March, 1972;

And whereas the Central Government is of opinion that the public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 25th September, 1972.

[No. S11025/9/72-LR.I(i).]

(श्रम और रोजगार विभाग)

नई दिल्ली, 12 सितम्बर 1972

का० आ० 2588.—यतः केन्द्रीय सरकार ने, यह समाधान हो जाने पर कि लोक हित में ऐसा अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ड) के उपखण्ड (i) के परन्तुक के उपबन्धों के अनुसरण में एक अधिसूचना भारत सरकार के श्रम और पुनर्वास मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना संख्या का० आ० 1225, तारीख 10 मार्च, 1972 द्वारा तांबा खनन उद्योग को उक्त अधिनियम, के प्रयोजनों के लिए 25 मार्च, 1972 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और यतः केन्द्रीय सरकार की राय है कि लोक हित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ड) के उपखण्ड (i) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 25 सितम्बर, 1972 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस० 11025/9/72—एल० आर० 1-(i)]

S.O. 2589.—Whereas the Central Government, being satisfied that the public interest so required, had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 1225, dated the 10th March, 1972] the lead mining industry to be a public utility service for the purposes of the said Act for a period of six months from the 25th March, 1972;

And whereas the Central Government is of opinion that the public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 25th September, 1972.

[No. S. 11025/9/72-LR.I.(ii).]



का० आ० 2589.—यतः केन्द्रीय सरकार ने, यह समाधान हो जाने पर कि लोक हित में ऐसा अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ठ) के उपखण्ड (i) के परन्तुक के उपबन्धों के अनुसरण में एक अधिसूचना [भारत सरकार के श्रम और पुनर्वासि मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना संख्या का० आ० 1226, तारीख 10 मार्च, 1972] द्वारा सीसा खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 25 मार्च, 1972 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और यतः केन्द्रीय सरकार की राय है कि लोक हित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः, अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ठ) के उपखण्ड (i) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त उद्योग को उक्त अधिनियम, के प्रयोजनों के लिए 25 सितम्बर 1972 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एम० 11025/9/72—एल० आर० 1(ii)]

S.O. 2590.—Whereas the Central Government, being satisfied that the public interest so required, had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour and Rehabilitation (Department of Labour and Employment) No. S.O. 1227, dated the 10th March, 1972] the Zinc mining industry to be a public utility service for the purposes of the said Act for a period of six months from the 25th March, 1972;

And whereas the Central Government is of opinion that the public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 25th September, 1972.

[No. S. 11025/9/72-LR.I.(iii).]

S. S. SAHASRANAMAN, Under Secy.

का० आ० 2590.—यतः केन्द्रीय सरकार ने, यह समाधान हो जाने पर कि लोक हित में ऐसा अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ठ) के उपखण्ड (i) के परन्तुक के उपबन्धों के अनुसरण में एक अधिसूचना [भारत सरकार के श्रम और पुनर्वासि मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना संख्या का० आ० 1227, तारीख 10 मार्च, 1972] द्वारा जस्ता खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 25 मार्च, 1972 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और यतः केन्द्रीय सरकार की राय है कि लोक हित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः, अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ठ) के उपखण्ड (i) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 25 सितम्बर, 1972 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस० 11025/9/72—एल० आर० I(iii)]

एस० एस० महस्रानामन, अवर सचिव।

## MINISTRY OF INDUSTRIAL DEVELOPMENT

### ORDER

New Delhi, the 29th August 1972

S.O. 2591.—In exercise of the powers conferred by section 5 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rules 3 and 4 of the Central Advisory Council (Procedural) Rules, 1952, the Central Government hereby appoints the following persons to be members of the Central Advisory Council for a period of two years from the date of this Order, in place of members whose term has expired by efflux of time or otherwise:—

#### Chairman

1. Minister of Industrial Development.

#### Members

2. President, Federation of Indian Chambers of Commerce and Industry, Federation House, New Delhi.
3. President, The Associated Chambers of Commerce and Industry of India, Royal Exchange, 6, Netaji Subhas Road, Calcutta.
4. President, National Alliance of Young Entrepreneurs, Alliance House, C-20/B, Green Park Extension, New Delhi-16.
5. President, All India Manufacturers' Organisation, Jeewan Sahakar, Sir Phirozshah Mehta Road, Bombay-1.
6. The Chairman, Indian Cotton Mills Federation, Elphinstone Building, Veer Nariman Road, Fort, Bombay.
7. Shri J. R. D. Tata, Tata Industries Private Ltd., Bombay House, Bruce Street, Fort, Bombay-1.
8. Shri M. A. Chidambaram, Automobile Products of India Ltd., South House, 99, Armenian Street, Madras-1.
9. Deputy Chairman, Andhra Pradesh Industrial Development Corporation Limited, Shakar Bhavan, Ground Floor, B-1-174, Fateh Maidan Road, Post Box No. 13, Hyderabad-4.
10. The Managing Director, Punjab State Industrial Development Corporation Ltd., Chandigarh.
11. The Chairman, Bharat Heavy Electricals Ltd., 5, Parliament Street, New Delhi-1.
12. The Chairman, Hindustan Steel Ltd., P.O. Hinoo, Ranchi.

13. Shri A. R. Bhai, Founder President of the Federation of Associations of Small Industries of India, 1218, Sadashiv Peth, Poona 30.
14. Shri M. S. Parthasarathi, President, Federation of Associations of Small Industries of India, 10-GST Road, Madras-32.
15. The Chairman, Industrial Credit and Investment Corporation of India Limited, 163, Backbay Reclamation, Bombay 20 BR.
16. The Vice Chairman, Industrial Development Bank of India, Post Box No. 1241, New India Centre, 17, Cooperage, Bombay-1.
17. Dr. A. M. Khuro, Director, Institute of Economic Growth, University Enclave, Delhi-7.
18. Shri G. Ramachandran, Chairman, Khadi and Village Industries Commission, 3, Irla Road, Vile Parle (West) Bombay-56, AS.
19. Prof. J. K. Chakraborty, P.O. Dhubri, Assam.
20. Mrs. Qamar Ahmed, 19, Rehmat Manzil, Church Gate Street, Bombay-20.
21. Shri S. N. Hada, 20, Raja Santosh Road, Calcutta-27.
22. Shri G. Ramanujam, General Secretary, INTUC, 2/441 Roaypottah High Road, Madras-14..
23. Shri V. R. Hoshing General Secretary, Rashtriya Mill Mazdoor Sangh, 'Mazdoor Manzil', G.D. Ambekar Marg, Parel, Bombay-12.
24. Shri S. A. Dange, General Secretary, "Ansooya Sadan", Sir Bhalchandra Road, Dadar, Bombay-14.
25. Shri Mahesh Desai, General Secretary, Hind Mazdoor Sabha, Nagindas Chambers, 167, P.D' Mello Road, Bombay-1. BR.

[No. 1(1)Lic. Pol./72.]

K. VENKATARAMAN, Director.

औद्योगिक विकास मंत्रालय

आदेश

नई दिल्ली, 29 अगस्त, 1972

का.आ. 2591.—उद्योग (विकास तथा विनियमन) अधिनियम, (1951 का 65) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सलाहकार परिषद् (कार्यविधिक) नियम, 1952 के नियम के नियम 3 और 4 के साथ पढ़ते हुए केन्द्रीय सरकार एवं द्वारा निम्नलिखित व्यक्तियों को इस आदेश की तिथि से दो वर्षों की अवधि के लिए उन सदस्यों के स्थान पर जिनका कार्यकाल व्यतीत हो गया है या अन्य प्रकार से समाप्त हो गया है, केन्द्रीय सलाहकार परिषद् का सदस्य नियुक्त करती है :—

- |  |         |
|--|---------|
| 1 औद्योगिक विकास मंत्री  | अध्यक्ष |
| 2 प्रेजिडेंट, फंडेशन आफ इण्डियन चैम्बर्स<br>आफ कामर्स एण्ड इण्डस्ट्री, फंडेशन हाउस,<br>नई दिल्ली।                            | सदस्य   |
| 3 प्रेजिडेंट, एसोसियेटेड चैम्बर्स आफ कामर्स<br>एण्ड इण्डस्ट्री आफ इण्डिया, रायल<br>एक्सचेंज, 5, नेताजी सुभाष रोड,<br>कलकत्ता | „       |

- |  |       |
|--|-------|
| 4 प्रेजिडेंट, नेशनल अलाइएस् आफ यंग<br>एंटरप्रिन्सिप्स, अलाइडस् हाउस,<br>सी-20/बी, ग्रीन पार्क एक्सटेंशन, नई<br>दिल्ली-16   | सदस्य |
| 5 प्रेजिडेंट, आल इण्डिया मैन्युफैक्चरर्स,<br>आर्गनाइजेशन, जीवन सहकार,<br>सर फिरोजशाह मेहता रोड, बम्बई-1.   | „     |
| 6 चैयरमन, इण्डियन कौटन मिल्स फेडरेशन<br>एन्प्लियनटन बिल्डिंग, वीन नरीमन रोड,<br>फोर्ड, बम्बई।  | „     |
| 7 श्री जे. आर. डी. टाटा टाटा इण्डस्ट्रीज<br>प्रा. लिमिटेड, बम्बई हाउस, ब्रूम स्ट्रीट,<br>फोर्ट, बम्बई-1  | „     |
| 8 श्री एम. ए. चिदम्बरम् आटोमोबाइल<br>प्रोडक्ट्स आफ इण्डिया लि. हाउस,<br>99, अरमेनियम स्ट्रीट, मद्रास-1,  | „     |
| 9 डिप्टी—चैयरमैन, आंध्र प्रदेश इण्डस्ट्रियल<br>डेवलपमेंट कारपोरेशन लिमिटेड, शंकर<br>भवन, ग्राउंड फ्लोर, बी-1-174.<br>फतेह मेहन रोड, पो. बा. नं. 13,<br>हदराबाद-4 | „     |
| 10 प्रबंध निदेशक, पंजाब राज्य औद्योगिक<br>विकास निगम लि., चण्डीगढ़।  | „     |
| 11 अध्यक्ष, भारत हेवीइलेक्ट्रिकल्स लिमिटेड,<br>5-पार्लियामेंट स्ट्रीट, नई दिल्ली-1,  | „     |
| 12 अध्यक्ष, हिन्दुस्तान स्टील लिमिटेड, पो. आ. ०<br>हिन्नु गंभी।  | „     |
| 13 श्री ए. आर. भट, फाउंडर प्रेजिडेंट आफ दि<br>फेडरेशन आफ एसोसिएशन आफ स्माल<br>इण्डस्ट्रीज आफ इण्डिया, 1228, सदाशिव<br>पेठ, पूना-30,                              | „     |
| 14 श्री एम. एस. पार्थसारथी, प्रेजिडेंट,<br>फेडरेशन आफ एसोसिएशन आफ स्माल<br>इण्डस्ट्रीज आफ इण्डिया, 10, जी. ०<br>एस. ० टी. ० रोड, इण्डिया, मद्रास-32              | „     |
| 15 चैयरमैन, इण्डस्ट्रियल क्रेडिट एण्ड इन्वेंट-<br>मेंट कारपोरेशन आफ इण्डिया लिमिटेड,<br>163, बकवे रिक्लमेशन, बम्बई-20,<br>बी. ० आर. ०                            | „     |
| 16 वाइस-चैयरमैन, इण्डस्ट्रियल डेवलपमेंट<br>बैंक आफ इण्डिया, पो. बा. नं. 1241,<br>न्यू इण्डिया सेंटर, 17-कूपरेज,<br>बम्बई-1                                       | „     |

- 17 डा० ए० एम० खुसरो, डायरेक्टर, इक्टीट्यूट  
ग्राफ इकोनोमिक ग्रोथ, यूनिवर्सिटी  
इन्फलेव, विल्ली-7, "
- 18 श्री जी० रामचन्द्रन, अध्यक्ष खादी तथा  
ग्रामोद्योग आयोग, 3-डर्ला रोड, विल  
पाले(वस्ट)बवई-56-एच० एस० । "
- 19 प्रोफेसर जे० के० चक्रवर्ती, पी० आ० कुन्नी,  
ग्रामाम । "
- 20 श्रीमर्त, आमर ग्रहमद, 19-रेहमत मंजिल  
चन्न गेट स्ट्रीट बवई-20, "
- 21 श्री एस० एन० हांडा, 20- राजा संतोष  
रोड, कलकत्ता-17 "
- 22 श्री जी० रामानुजम्, महासचिव, इंटक,  
2/44, रायपट्टा हाई रोड, मद्रास-14 "
- 23 श्री वी० आर होंशिंग, महासचिव, राष्ट्रीय  
मिल मजदूर संघ, "मजदूर मंजिल", जी०  
डी० अम्बेकर मार्ग, पारेल, बम्बई-12, "
- 24 श्री एस० ए० डांगे, महा-सचिव, "अनुसूत्या  
सदन, सर बालचन्द्र रोड, बावर, बम्बई-14.
- 25 श्री महेश देसाई, महासचिव, हिन्म मजदूर  
सभा, नगीनदास बम्बई, 167, पी० डीपेलो  
रोड, बवई-1, बी० आर ।

[सं० 1(1) लाई० पालि०/72]

के० व्हेकटटरामन, निदेशक ।

## ELECTION COMMISSION OF INDIA

New Delhi, the 18th September 1972

S.O. 2592.—In pursuance of Clause (b) of sub-section 116C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order, dated the 21st August, 1972 of the Supreme Court of India on an appeal from the judgment and order dated the 13th March, 1972 of the High Court of Delhi in Election Petition No 1 of 1971.

## IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 995 OF 1972.

Prof. Balraj Madhok,—Appellant,

V

Shri Shashi Bhushan and Ors.—Respondents.

## JUDGMENT

HEGDE J.—This is an appeal under S. 116A of the Representation of the People Act, 1951 (to be hereinafter referred to as the Act). The appellant was the election petitioner. The respondent is the returned candidate. The Constituency with which we are concerned in this appeal is the South Delhi Parliamentary

Constituency. In the last General Election to the Lok Sabha from the South Delhi Parliamentary Constituency, the appellant was the Jan Sangh nominee and the respondent was the Congress nominee. After counting of votes, the respondent was declared elected. The appellant challenged the validity of the election of the respondent on various grounds. At the time of the trial the case, he pressed only one ground viz. that the election was rigged by the ruling party. The appellant explained the process adopted in rigging the election thus: Millions of ballot papers were chemically treated and the symbol of the Congress candidate in those ballot papers was mechanically stamped by using invisible ink. As a result of the chemical treatment of those ballot papers, the mark put at the time of the polling disappeared after a few days and the stamp mechanically placed earlier emerged. The suggestion was that this was done as a result of a conspiracy between the ruling party and the Election Commission. According to the appellant, to carry out the design in question quite contrary to the earlier practice the Election Commission instructed the Returning Officers to forward to Delhi substantial number of ballot papers of each constituency ostensibly for the purpose of scrutiny but really for the purpose of carrying out the design mentioned earlier. He further alleged that in place of the ballot papers received the Returning Officers were supplied with ballot papers chemically treated and mechanically stamped. Those ballot papers formed part of the ballot papers used at the election. He also averred that in furtherance of the above design, the Election Commission made two alterations in the practice followed earlier; firstly it provided larger interval between the date of polling and the date of counting and secondly by precipitate alteration of a rule, it provided for mixing up of ballot paper of various booths and rotating them in drums. According to him these innovations were introduced so that the chemical treatment of the ballot papers may have the desired effect.

When the case was taken up for trial, the appellant sought for an inspection of the ballot papers. The trial judge after hearing the parties granted the inspection asked for. Aggrieved by that order, the respondent came up in appeal to this Court. Before this Court it was contended on behalf of the respondent that the appellant has not made out a case for inspection of the ballot papers. Rejecting that contention this Court observed thus:

"The election petitioners do not claim to have any direct evidence to support their version. They seek to prove their version primarily on the basis of the examination of the ballot papers. But to probalish their version, they have put forward various circumstances. They have filed affidavits of two persons who claim to have been present at the time of counting. They supported the allegation in the petition seeking inspection, regarding the facts said to have been observed at the time of counting. In those petitions it was alleged that at the time of the counting, it was noticed that the colour of a large number of ballot papers was different from the colour of the other ballot papers, stamping of the symbol in ballot papers was uniform, at an identical spot in each of those ballot papers, the stamps were uniform in density and they looked bright and fresh. Those features were quite dissimilar to those found in the other papers including those containing votes in favour of the defeated candidates. The election petitioner in this connection referred to the rumours prevailing about the rigging of the election, the landslide victory of the ruling party which according to them was wholly unexpected and finding of huge quantity of unused ballot papers in a godown in Chandigarh. The material facts supporting the allegation of rigging are those said to have been observed at the time of the

counting. In addition they also pointed out the changes made by the Election Commission in the counting procedure and tried to draw an adverse inference therefrom. Whether the observations said to have been made are true or whether they were merely the figment of imagination of some fertile brains has yet to be examined. The only effective way of checking the correctness of those allegations is by inspecting the ballot papers.

We are free to admit that we are unable to comprehend the theories propounded by the election petitioners. But we are conscious of our limitations. The march of science in recent years has shown that what was thought to be impossible just a few years back has become an easy possibility now. What we would have thought as wild imagination some years back are now proved to be realities. Hence we are unable to reject the allegations of the election petitioners without scrutiny. We shall accept nothing and reject nothing except on satisfactory proof. We are approaching the allegations made in the elections petitions in that spirit.

The learned trial judge did not hold that the allegations made by the election petitioners were not bonafide allegations. We see no reason to come to a contrary conclusion. He took the view that those allegations were of serious character and the material facts stated in support of those allegations were such as to call for investigation into the truth of those allegations. We are of the same opinion. The allegation that our electoral process has been foulded is a very serious allegation. That allegation is a challenge to the integrity and impartiality of the Election Commission. Those allegations if believed are sure to undermine the confidence of our people in our democratic institution. Herein we are not merely concerned about the validity of elections in two constituencies. They are no doubt important but in the context of things their importance pales into insignificance. What is more important is the survival of the very democratic institutions on which our way of life depends.

It was said, on behalf of the appellants that those allegations were nothing but propaganda stunts and they were wholly devoid of truth. If that is so it is in public interest that the falsity of that propaganda should be exposed. The confidence in our electoral machinery should not be allowed to be corroded by false propaganda. It is of utmost importance that our electorate should have full confidence in the impartiality of the Election Commission. Even the very best institutions can be maligned. In all countries, at all times, there are gullible persons. The effectiveness of an institution like the Election Commission depends on public confidence. For building up public confidence, public must be given the opportunity to know the truth. Any attempt to obstruct an enquiry into the allegations made may give an impression that there might be some truth in the allegations made.

From the records we gather that the allegations with which we are concerned are being made in several places in this country with some persistency. It is not unlikely that a section of our people, rightly or wrongly, have persuaded themselves to believe in those allegations. Such a situation should not be allowed to remain. The strength of a democratic society depends on the knowledge of its ordinary citizens about the affairs of the institutions created to safeguard their rights. It is dangerous to allow them to feed themselves with rumours."

Modifying the order of the High Court in certain respects, this Court observed:

"The next question is whether it is necessary to inspect all the ballot papers as has been ordered by the trial judge. We think that a general inspection should not be permitted, until there is satisfactory proof in support of these allegations. For finding out whether

there is any basis for those allegations, it would be sufficient if some ballot papers say about 600 out of those polled by each of the returned candidates are selected from different bundles or tins in such a way as to get a true picture. He may also select about 200 ballot papers cast in favour of the election petitioner for comparison. All the selected ballot papers at the first instance be examined by the learned judge with the assistance of the Counsel for the parties as well as the parties. If the learned judge comes to the conclusion that the matter should be further probed into, he may take evidence on the points in issue including evidence of expert witnesses. Thereafter it is open to him to direct or not to direct a general inspection of the ballot papers. But in doing so he will take care to maintain the secrecy of the ballot.

Subject to the direction given above, those appeals are dismissed but in the circumstances of the case we make no order as to costs in these appeals.

After the case was sent back, the learned trial judge inspected the ballot papers in accordance with the directions given by this court in the presence of the parties and their Counsel. This is what the learned judge states in his judgment about the observations made by him;

"It was pointed out that there was a difference in shade and shadow of the colour of the ballot papers. One type of ballot papers was called white while the other was called brown. I have myself seen these ballot papers. So far as their colour is concerned, I would place them in two categories namely (a) white and (b) off-white. Counsel for the petitioner in E. P. No. 2 of 1971 contended that the majority of the ballot papers polled by respondent No. 1 were brown and that all these brown ballot papers had been chemically treated. Mr. Madhok, petitioner in this petition did not go to this extent and argued that all the brown ballot papers may not have been chemically treated.

If this argument was correct, one should not have found any brown ballot papers amongst the ballot papers polled by the petitioner. This factually is not so because ballot papers polled by the petitioner are also found in the aforesaid two shades which I have called 'white' and 'off-white'.

Even while taking out the rolls of ballot papers from the bundles contained in the gunny bags and again during their segregation into smaller rolls, I had looked at them from this point of view. One necessary result which would follow if a mechanical process had been employed would be that a sufficiently large number of marks would be placed at the identical spot in the relevant column of the ballot paper. I have not been able to find, inspite of as careful a comparison as I could make, even two ballot papers which can be said to have been placed at the identical spot. The entire theory of the employment of a mechanical process must to my mind, fall."

From the observations made by the learned trial judge, it is clear that the theory that the ballot papers were mechanically marked is absolutely without any foundation. Once the theory that thousands of ballot papers were mechanically marked is rejected, the remaining part of the appellant's case cannot have much basis. The appellant has produced no basis for saying that the ballot papers were chemically treated. The fact that there were ballot papers having two colours white and off-white does not lend any support to the content on that any of the ballot papers were chemically treated for the reasons mentioned by the trial judge. The appellant who argued the appeal before us in person tried to evolve a theory that some ballot-papers cast in his favour might have changed

their colour because of their coming into contact with the other chemically treated papers. We see no basis to accept this contention.

We agree with the trial judge that the appellant has not made out his case that the election in question was rigged.

In the result this appeal fails and the same is dismissed with costs.

(Sd.) K. S. HEGDE, J.

(Sd.) A. N. GROVER, J.

(Sd.) D. G. PALEKAR, J.

Dated, New Delhi, the 21st August, 1972.

[No. 82/D611/72.]

A. N. SEN, Secy.

### MINISTRY OF FOREIGN TRADE

New Delhi, the 17th June, 1972

**S.O. 2593.**—Whereas the Central Government in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 is of opinion that it is necessary or expedient to amend the notification of the Government of India in the Ministry of Foreign Trade No. S.O. 2137 dated 5th June, 1970 regarding Dried Fish in the manner specified below for the development of the export trade of India, and has forwarded the proposal in that behalf to the Export Inspection Council as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposal for the information of the public likely to be affected thereby.

2. Notice is hereby given that any person desiring to forward any objection or suggestion with respect to the said proposal may forward the same within thirty days of the date of publication of this notification to the Export Inspection Council, World Trade Centre, 14/1B, Ezra Street (7th Floor), Calcutta-1.

#### Proposal

The notification of the Government of India in the Ministry of Foreign Trade No. S.O. 2137 dated 5th June, 1970, shall be amended as follows, namely:—

In Annexure II to the said notification, in the entries against serial No. 8, for the entry in column 9, the following entry shall be substituted, namely:

“The broken bits of Spratts or any other fish or mixture of other varieties of small fish, shall not be more than 6 per cent”.

[No. 6(19)/71-EI & EP.]

M. K. B. BHATNAGAR, Dy. Director.

विदेश व्यापार मंत्रालय

नई दिल्ली, 17 जून, 1972

का० आ० 2593.—यनः निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार की यह राय है कि सूखी मछली से सम्बन्धित भारत सरकार के विदेश व्यापार मंत्रालय की अधिसूचना सं० का० आ० 2137, तारीख 5 जून, 1970 में, भारत के निर्यात व्यापार के विकास के लिए निम्नलिखित विनिर्दिष्ट रीति में, संशोधन करना आवश्यक या समीचीन है और उसने इस निमित्त, निर्यात निरीक्षण परिषद् को, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उप-नियम (2) द्वारा यथा अपेक्षित प्रस्ताव भेजा है ;

अतः, अब, उक्त उप-नियम के अनुसरण में, केन्द्रीय सरकार उससे सम्भाव्यतः प्रभावित होने वाली जनसाधारण की जानकारी के लिए उक्त प्रस्ताव एतद्वारा प्रकाशित करती है।

2. एतद्वारा सूचना दी जाती है कि उक्त प्रस्ताव के बारे में कोई आक्षेप या सुझाव भेजने की बांछा करने वाला कोई व्यक्ति इस अधिसूचना के प्रकाशन की तारीख से 30 दिन के भीतर उसे निर्यात निरीक्षण परिषद् वर्ल्ड ट्रेड सेंटर, 14/1 बी, इजरा स्ट्रीट (सातवीं मंजिल), कलकत्ता-1 को भेज सकेगा।

#### प्रस्ताव

भारत सरकार के विदेश व्यापार मंत्रालय की अधिसूचना सं० का० आ० 2137, तारीख 5 जून, 1970 निम्नलिखित रूप में संशोधित की जाएगी, अर्थात् :—

उक्त अधिसूचना के उपाबन्ध II में, क्रम संख्या 8 के सामने की प्रविष्टियों में, स्तम्भ 9 प्रविष्टि के स्थान पर, निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात् :—

“स्प्राट्स या किसी अन्य मछली के टूटे टुकड़े या अन्य किसी भी छोटी मछलियों का मिश्रण 6 प्रतिशत से अधिक नहीं होगा”

[संख्या 6(19)/71-नि०नि० और नि० सं०]

एम० के० बी० भटनागर,  
उप-निदेशक।

### MINISTRY OF FINANCE

#### Department of Revenue & Insurance

New Delhi the 17th June, 1972

**S.O. 2594.**—In pursuance of sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 2 read with rule 34 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) S.R.O. No. 612, dated the 28th February, 1957, namely:—

In the Schedule to the said notification:—

(1) in Part II—General Central Service, Class III,

(a) under the heading "Central Excise Departments"

(i) for the entries under the sub-heading "Non-ministerial", the following entries shall be substituted, namely:—

Description of Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 11)		Appellate Authority
		Authority	Penalties	
1	2	3	4	5
All posts above the rank of Inspector.	Collector of Central Excise.	Collector of Central Excise. Deputy Collector or Assistant Collector (Headquarters) or Assistant Collector in respect of persons serving under him.	All (i) to (iv)	Central Board of Excise and Customs. Collector of Central Excise.
All other posts equal to or below the rank of Inspector.	Assistant Collector (Headquarters).	Assistant Collector (Headquarters)	All	Collector of Central Excise.
		Deputy Collector in respect of persons serving under him. Assistant Collector in respect of persons serving under him.	All (i) to (iv)	Collector of Central Excise. Collector of Central Excise.
	Where there is no Assistant Collector (Headquarters), Collector of Central Excise.	Collector of Central Excise.	All	Central Board of Excise and Customs.
		Deputy Collector or Assistant Collector in respect of persons serving under him.	(i) to (iv)	Collector of Central Excise.
Chemical Assistant	Chief Chemist	Chief Chemist Assistant Collector	All (i) to (iv)	Central Board of Excise and Customs. Chief Chemist."

(ii) for the entries under the sub-heading "Ministerial", the following entries shall be substituted, namely:—

1	2	3	4	5
"Office Superintendent	Collector of Central Excise.	Collector of Central Excise Deputy Collector or Assistant Collector (Headquarters) or Assistant Collector in respect of persons serving under him.	All (i) to (iv)	Central Board of Excise and Customs. Collector of Central Excise.
All other posts	Assistant Collector (Headquarters)	Assistant Collector (Headquarters)	All	Collector of Central Excise.
		Deputy Collector in respect of persons serving under him. Assistant Collector in respect of persons serving under him.	All (i) to (iv)	Collector of Central Excise. Collector of Central Excise.
Where there is no Assistant Collector (Headquarters), Collector of Central Excise.		Collector of Central Excise.	All	Central Board of Excise and Customs.
		Deputy Collector or Assistant Collector in respect of persons serving under him.	(i) to (iv)	Collector of Central Excise."

(b) for the entries under the heading 'Directorate of Inspection (Customs and Central Excise)', the following entries shall be substituted, namely:—

1	2	3	4	5
"All posts equal to or above the rank of 'Assistant'"	Director of inspection	Director of Inspection	All	Central Board of Excise and Customs
		Deputy Director of Inspection	(i) to (iv)	Director of Inspection
All other posts below the rank of 'Assistant.'	Deputy Director of Inspection	Deputy Director of Inspection	All	Director of Inspection"

(c) for the entries under the heading 'Statistical and Intelligence Branch (Central Excise)', the following entries shall be substituted, namely:—

1	2	3	4	5
"All posts . . . . ."	Additional Director in-charge	Additional Director-incharge	All	Central Board of Excise and Customs";

(d) after the existing entries, the following entries shall be inserted namely.

1	2	3	4	5
<i>"Directorate of Training (Customs and Central Excise)"</i>				
All posts . . . . .	Director of Training	Director of Training	All	Central Board of Excise and Customs
		Deputy Director	(i) to (iv)	Director of Training";

(2) in Part III—General Central Service, Class IV

(a) for the entries under the heading 'Central Excise Department', the following entries shall be substituted, namely:

1	2	3	4	5
"All posts . . . . ."	Assistant Collector in-charge of Division; Assistant Collector (Headquarters) or where there is no Assistant Collector (Headquarters), Chief Accounts Officer.	Assistant Collector incharge of Division; Assistant Collector (Headquarters) or where there is no Assistant Collector (Headquarters), Chief Accounts Officer.	All	Collector of Central Excise.
		Superintendent of Central Excise or Administrative Officer.	(i) to (iv)	Assistant Collector"

(b) for the entries under the heading 'Directorate of Inspection (Customs and Central Excise)', the following entries shall be substituted, namely:—

1	2	3	4	5
"All posts . . . . ."	Deputy Director of Inspection	Deputy Director of Inspection	All	Director of Inspection."

(c) for the entries under the heading 'Statistical and Intelligence Branch (Central Excise)', the following entries shall be substituted, namely:—

1	2	3	4	5
"All posts . . . . ."	Additional Director-incharge	Additional Director-incharge	All	Central Board of Excise and Customs.
		Chief Statistical Officer	(i) to (iv)	Additional Director in-charge,"



(d) after the existing entries, the following entries shall be inserted, namely :—

1	2	3	4	5
"Directorate of Training (Customs and Central Excise)				
All posts	Deputy Director	Deputy Director	All	Director of Training".

[No. F. C. 11016/21/71-Ad.V.]

T. DUTT, Under Secy.

विन मंत्रालय

(राजस्व और वीणा विभाग)

नई दिल्ली, 17 जून, 1972

एम० ओ० 2594.—केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण तथा प्रशिक्षण) विभाग को, 1965 के नियम 34 के साथ पठित नियम 9 के उपनियम (2), नियम 12 के उप-नियम (2) के खंड (ख) तथा नियम 24 के उपनियम (1) के अनुमरण में राष्ट्रपति एन० द्वारा, वित्त मंत्रालय (राजस्व विभाग) भारत सरकार की दिनांक 28 फरवरी, 1957 की अधिसूचना एस० आर० ओ० सं० 612 में एन० द्वारा और आगे निम्नलिखित संशोधन करने हैं, अर्थात् :—

(i) भाग ii में सामान्य केन्द्रीय सेवा, श्रेणी iii

(क) "केन्द्रीय उत्पाद शुल्क विभाग" शीर्षक के अन्तर्गत

(i) उप शीर्षक "गैर-कार्यालयी" के अन्तर्गत प्रविष्टियों के लिए निम्नलिखित प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात् :—

पद का विवरण	नियुक्ति कर्ता अधिकारी	इस पद के लिए आवश्यक अधिकारी और (नियम 34 के उपनियम (1) की मद संख्याओं के संदर्भ में) जो इंडेंड वह लगा सकता हो,	इस पद के लिए आवश्यक अधिकारी	इस पद के लिए आवश्यक अधिकारी
1	2	3	4	5
"निरीक्षक के ओहदे से ऊपर के सभी पद	केन्द्रीय उत्पाद-शुल्क समाहर्ता	केन्द्रीय उत्पाद शुल्क समाहर्ता सभी उप-समाहर्ता अथवा सहायक (i) से (iv) समाहर्ता (सहायक) अथवा सहायक समाहर्ता, उनके अधीन कार्य कर रहे व्यक्तियों के संदर्भ में।	केन्द्रीय उत्पाद-शुल्क, तथा सोम शुल्क बोर्ड केन्द्रीय उत्पाद-शुल्क समाहर्ता	
निरीक्षक के ओहदे बराबर के अथवा उससे नीचे के सभी अन्य पद	सहायक समाहर्ता (मुख्यालय)	सहायक समाहर्ता (मुख्यालय) सभी उप-समाहर्ता उनके अधीन कार्य कर रहे व्यक्तियों के संदर्भ में।	केन्द्रीय उत्पाद-शुल्क समाहर्ता	
		सहायक समाहर्ता उनके (i) से (v) अधीन कार्य कर रहे व्यक्तियों के संदर्भ में।	केन्द्रीय उत्पाद-शुल्क समाहर्ता	
	जहां सहायक समाहर्ता (मुख्यालय) नहीं हैं वहां उत्पाद-शुल्क समाहर्ता	केन्द्रीय उत्पाद-शुल्क समाहर्ता सभी	केन्द्रीय उत्पाद-शुल्क तथा सोम-शुल्क बोर्ड	

1	2	3	4	5
		उप-समाहर्ता अथवा सहायक समाहर्ता, उसके अधीन कार्य कर रहे व्यक्तियों के संबंध में ।	(i) से (iv)	केन्द्रीय उत्पादशुल्क समाहर्ता
रसायन सहायक	मुख्य रसायन	मुख्य रसायनज्ञ	सभी	केन्द्रीय उत्पाद शुल्क या सीमाशुल्क बोर्ड
		सहायक समाहर्ता	(i) से (iv)	मुख्य रसायनज्ञ,

(ii) उपशीर्षक "कार्यालयी" के अन्तर्गत प्रविष्टियों के लिये निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
"कार्यालय अधीक्षक	केन्द्रीय उत्पादशुल्क समाहर्ता	केन्द्रीय उत्पादशुल्क समाहर्ता	सभी	केन्द्रीय उत्पादशुल्क तथा सीमाशुल्क बोर्ड
		उप-समाहर्ता अथवा सहायक समाहर्ता (मुख्यालय) अथवा सहायक समाहर्ता, उसके अधीन कार्य कर रहे व्यक्तियों के संबंध में ।	(i) से (iv)	केन्द्रीय उत्पादशुल्क समाहर्ता
सभी अन्य पद	सहायक समाहर्ता (मुख्यालय)	सहायक समाहर्ता (मुख्यालय)	सभी	केन्द्रीय उत्पादशुल्क आयुक्त
		उप समाहर्ता, उसके अधीन कार्य कर रहे व्यक्तियों के संबंध में ।	सभी	केन्द्रीय उत्पादशुल्क समाहर्ता
		सहायक समाहर्ता, उसके अधीन कार्य कर रहे व्यक्तियों के संबंध में ।	(i) से (iv)	केन्द्रीय उत्पादशुल्क समाहर्ता
	जहां सहायक समाहर्ता (मुख्यालय) नहीं हो, वहां केन्द्रीय उत्पादशुल्क समाहर्ता	केन्द्रीय उत्पाद-शुल्क समाहर्ता	सभी	केन्द्रीय उत्पादशुल्क सीमा-शुल्क बोर्ड
		उप-समाहर्ता अथवा सहायक समाहर्ता, उसके अधीन कार्य कर रहे व्यक्तियों के संबंध में ।	(i) से (iv)	केन्द्रीय उत्पादशुल्क समाहर्ता";

(ख) "निरीक्षण निदेशालय (सीमाशुल्क तथा केन्द्रीय उत्पादशुल्क)" शीर्षक के अन्तर्गत प्रविष्टियों के लिये निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
'सहायक' के ओहदे के बराबर अथवा उससे ऊपर के सभी पद	निरीक्षण निदेशक	निरीक्षण निदेशक	सभी	केन्द्रीय उत्पादशुल्क तथा सीमाशुल्क बोर्ड
सहायक के ओहदे से नीचे के अन्य सभी पद	निरीक्षण उपनिदेशक	निरीक्षण उपनिदेशक	(i) से (iv)	निरीक्षण निदेशक
			सभी	निरीक्षण निदेशक";

(ग) 'सांख्यिकी तथा आसूचना शाखा (केन्द्रीय उत्पादशुल्क)' शीर्षक के अन्तर्गत प्रविष्टियों के लिये निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

"सभी पद	कार्यभारी अपर निदेशक	कार्यभारी अपर निदेशक	सभी	केन्द्रीय उत्पादशुल्क तथा सीमाशुल्क बोर्ड"
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(घ) वर्तमान प्रविष्टियों के बाद निम्नलिखित प्रविष्टियां अन्तःस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
सभी पद	प्रशिक्षण निदेशक	प्रशिक्षण निदेशक	सभी	केन्द्रीय उत्पादशुल्क तथा सीमाशुल्क बोर्ड
		उप निदेशक	(i) से (iv)	प्रशिक्षण निदेशक"

(2) भाग-iii में सामान्य केन्द्रीय सेवा, श्रेणी IV

(क) 'केन्द्रीय उत्पादशुल्क विभाग' शीर्षक के अन्तर्गत प्रविष्टियों के लिये निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
"सभी पद	प्रभाग कार्यभारी सहायक समाहर्ता (मुख्यालय) अथवा जहाँ कहीं सहायक समाहर्ता (मुख्यालय) नहीं हो वहाँ मुख्य लेखा अधिकारी	प्रभाग का कार्यभारी सहायक समाहर्ता; सहायक समाहर्ता (मुख्यालय) अथवा जहाँ कहीं सहायक समाहर्ता (मुख्यालय) नहीं हो, वहाँ मुख्य लेखा अधिकारी केन्द्रीय उत्पाद शुल्क अधीक्षक	सभी	केन्द्रीय उत्पादशुल्क समाहर्ता
		अथवा प्रशासनिक अधिकारी	(i) से (iv)	सहायक समाहर्ता";

(ख) 'निरीक्षण निदेशालय (सीमाशुल्क तथा केन्द्रीय उत्पादशुल्क)' शीर्षक के अन्तर्गत प्रविष्टियों के लिए निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
'सभी पद	निरीक्षण उप निदेशक	निरीक्षण उप-निदेशक	सभी	निरीक्षण निदेशक"

(ग) 'सांख्यिकी तथा आसूचना शाखा (केन्द्रीय उत्पादशुल्क)' शीर्षक के अन्तर्गत प्रविष्टियों के लिये निम्नलिखित प्रविष्टियां प्रतिस्थापित की जायेंगी, अर्थात् :—

1	2	3	4	5
"सभी पद	कार्यभारी अपर निदेशक	कार्यभारी अपर निदेशक	सभी	केन्द्रीय उत्पाद शुल्क तथा सीमा शुल्क बोर्ड
		मुख्य सांख्यिकीय अधिकारी		(i) कार्यभारी अपर निदेशक (iv) शक

(घ) वर्तमान प्रविष्टियों के बाद निम्नलिखित प्रविष्टियां अन्तःस्थापित की जायेंगी, अर्थात् :

1	2	3	4	5
सभी पद	उप-निदेशक	उप-निदेशक	सभी	प्रशिक्षण निदेशक"
				प्रशिक्षण निदेशालय (सीमाशुल्क तथा केन्द्रीय उत्पादशुल्क)

## MINISTRY OF LAW AND JUSTICE

### (Legislative Department)

#### CORRIGENDA

New Delhi, the 8th September, 1972

**S.O. 2595.**—In the notification of the Government of India, Ministry of Law and Justice (Legislative Department), No. S.O. 235(E), dated the 28th March, 1972, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 28th March, 1972, in declaration No. (3) at page 571—

(i) in the heading, for “1-Mayurbhanj” read “2-Tura (ST)”;

(ii) in line 9, for “seat in that House from the above constituency,” read “vacancy caused in that House by the seat of 2-Tura (ST) Constituency having become vacant.”

[No. F.13(2)/72-Leg.II.]

H. C. VERMANI, Under Secy.

## MINISTRY OF LABOUR AND REHABILITATION

### (Department of Labour and Employment)

New Delhi, the 10th July 1972

**S.O. 2596.**—In pursuance of sub-section (4) of section 3 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), the Central Government hereby publishes the following report of the activities financed from the Mica Mines Labour Welfare Fund during the year ending the 31st March, 1970, together with a statement of accounts for that year and an estimate of receipts and expenditure of the said Fund for the year 1970-71.

#### PART I

1. *General.*—The Mica Mines Labour Welfare Fund has been constituted under the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946) for the financing of activities to promote the welfare of labour employed in the mica mining industry. Some of the major activities enumerated for this purpose are sanitation, medical facilities, housing, water supply, education, general improvement in the standard of living and recreational facilities.

2. The Act provides for the levy as a cess of a duty of customs on all mica exported from the territories to which the Act extends at a rate not exceeding 6½ per cent *ad valorem*. The rate fixed for the present, however, is 2½ per cent *ad valorem*. The collections are allocated for expenditure on welfare measures among the various mica-producing areas in proportion to their average production.

3. To advise the Central Government on matters connected with the administration of the Act, the Central Government has constituted three Advisory Committees (representing the Government, the owners of mica mines and the workmen employed in the mica mining industry) i.e., one each for the States of Andhra Pradesh, Bihar and Rajasthan. To co-ordinate the activities of the regional Funds, there was formerly a Co-ordinating Committee consisting of officials only. In order to give representation to the mica mine workers and mica mine employers, the Committee was replaced on the 5th October, 1967 by a Tripartite Central Advisory Board under the Chairmanship of the Joint Secretary in the Ministry. The first meeting of the Board was held at Hyderabad on the 28th December, 1967. On the expiry of the life of the Board which was for a period of one year, the Board was reconstituted on the 26th November, 1968 and its tenure was fixed for three years. At the second meeting of the Board held on the 14th December, 1968 at Bhilwara (Rajasthan), the Board recommended that each State

Advisory Committee should have the Labour Minister of the State as its Chairman. The recommendation was accepted by the Central Government and the Labour Ministers of the States have been made Chairman of the State Advisory Committees.

4. The following welfare measures have been undertaken in the States of Bihar, Andhra Pradesh and Rajasthan:—

(i) *Medical facilities.*—(a) *Hospitals.*—A 100-bed Central Hospital at Karma (Bihar), a 30-bed Regional Hospital at Tisri (Bihar), a 14-bed Hospital at Kalichedu (Andhra Pradesh) and a 30-bed Central Hospital at Gangapur (Rajasthan) continued to be maintained from the resources of the Fund. The dispensary at Jalupur (Andhra Pradesh) was converted into a 10-bed hospital. A 50-bed T.B. Hospital at Karma (Bihar) and a 16-bed T.E. Ward attached to the hospital at Kalichedu and a 30-bed T.B. Clinic at Tisri (Bihar) also continued to function.

(b) *Other medical facilities.*—Other medical institutions set up from the finances of the Fund comprised State Dispensaries, Ayurvedic Dispensaries, Mobile Medical Units, Maternity and Child Welfare centres, etc. The regional distribution of these medical institutions during the year is as under:—

Medical Institutions	Andhra Pradesh	Bihar	Rajasthan
Ayurvedic Dispensaries	3	7	12
State Dispensaries	2	5	5
Mobile Medical Units	1	3	4
Maternity and Child Welfare/ Small Community Centres	4	7	7

Six beds in Government Welfare Fund T.B. and Chest Diseases Hospital, Nellore, were reserved for the exclusive use of mica miners and their families. Arrangements were continued for the treatment at the Tetulmari Leprosy Hospital of mica miners of Bihar who suffer from Leprosy. An X-ray plant was installed during the year at the Government Hospital, Gudur, with financial assistance from the Fund to the extent of Rs. 24,000 towards its cost.

(c) *Assistance to T.B. patients.*—Subsistence allowance at Rs. 50-00 per month continued to be granted to the dependents of mica miners who were under treatment in the T.B. Ward attached to the Central Hospital, Karma.

The scheme of domiciliary treatment of T.B. and Silicosis patients was also continued. The patients attending the out-door department of the T.B. Hospital, Nellore, were granted travelling allowance. A Rehabilitation-cum-Convalescence Home set up in Bihar for workers cured of T.B., continued to function. Financial assistance to mica miners suffering from T.B. by way of aid of Rs. 50.00 per month as subsistence allowance and Rs. 50.00 per month for special diet for six months continued to be provided. The Scheme of domiciliary treatment of T.B. patients among mica miners was continued in Rajasthan.

(ii) *Educational facilities.*—Nine Multipurpose Institutes, each with an Adult Education Centre and a Women's Welfare Section, provided educational and recreational facilities to workers, training in handicrafts like sewing, etc., to the female workers and dependents of miners in Bihar. In two women's Centres in Andhra Pradesh and seven such Centres in Rajasthan, girls and women workers were taught tailoring, stitching, etc. Educational facilities for miners' children were being provided in 6 Elementary Schools, 2 High Schools and 2 Adult Literacy Centres in Andhra Pradesh, 4 Primary Schools, 4 Middle

Schools, and 7 Feeder Centres in Bihar, 2 Primary Schools, 1 Middle School, 24 Adult Education Centres and 5 Feeder Centres in Rajasthan. Besides these, one evening Mining School was functioning in Andhra Pradesh. It imparted training facilities to miners in mining trades.

In the schools in Andhra Pradesh, children of mica miners were provided with facilities like free mid-day meals, milk, books, slates and clothing. Milk, tiffin, books, slates, clothing, etc., were provided to miners' children attending the Multipurpose Institutes, Community centres and Schools in Bihar. The children attending the Multipurpose Institutes in Bihar were given bath daily for which oil and soap were provided by the Institutes. Mid-day meals, books, slates and other stationery articles were supplied to the school-going children of mica miners in Rajasthan.

Four boarding houses in Bihar and two in Andhra Pradesh continued to be run for the children of mica miners studying in schools and colleges. A hospital set up at Gangapur (Rajasthan) for children of mica miners studying in Higher Secondary Schools continued to function.

Scholarships were granted to the children of mica miners studying in schools and colleges in Bihar, Andhra Pradesh and Rajasthan. Such scholarships were granted for both general and technical education. Mica Miners' children studying in schools were also granted re-imbursement of tuition fee in Bihar. A Schools Health Programme was introduced in the two Higher Secondary Schools and six Elementary Schools under the Fund organisation in Andhra Pradesh.

(iii) *Recreational facilities.*—Four mobile cinema units (three in Bihar and one in Rajasthan), gave free shows in different mining centres. Radio sets continued to be provided for the recreation of mica miners and their families. In Bihar, the recreational facilities were provided at Multipurpose Institutes, Community and Feeder Centres. Out-door and in-door recreational facilities were also provided in the Centres, sub-centres and feeder centres in Rajasthan, and 15 Recreational Clubs in Andhra Pradesh. Bhajan and Kirtan parties were organised in different mining areas. Annual Sports were also conducted in the form of zonal Tournaments and prizes were distributed to the winners.

(iv) *Drinking water facilities.*—80 wells (74 in Bihar and 6 in Andhra Pradesh) were constructed by the Fund Organisation. Out of these, 14 wells were those sunk during 1969-70. Twelve additional wells—3 in Bihar and 9 in Andhra Pradesh—were also sunk under the subsidy Scheme under which the mine owners' who sink wells get a subsidy equal to Rs. 7,500 per well or 75 per cent of the cost of construction, whichever is less.

(v) *Housing facilities.*—The progress of housing in the three regions was as under:—

- (a) In Bihar a departmental colony consisting of 50 houses was provided at Jorasimar. Another colony of 48 houses at Domchanch had been completed. Construction of 500 low cost houses at a cost of Rs. 1,600 each was also sanctioned.
- (b) In Andhra Pradesh, sixteen houses under the Low Cost Housing Scheme were under construction and nearing completion. Work orders for 12 more houses were issued. Seven houses were constructed under the "Build Your Own House Scheme". Construction of 5 more houses under the same scheme was in progress. In addition to the sanction already accorded to a departmental colony of 50 houses at Shah Mines, sanction was given to the construction of another colony of 40 houses at Talupur.

(c) In Rajasthan, part subsidy to 48 mica mine workers for construction of houses under "Build Your Own House Scheme" had been paid.

(vi) *Financial help in case of accidents.*—The Scheme relating to the grant of financial assistance from the Fund to the widows and children of mica miners who die as a result of accidents was continued.

(vii) *Consumer's Co-operative Stores.*—One wholesale (Central) Consumers' Co-operative Stores with seven branches and five primary stores in Bihar and four primary consumers' Co-operative stores in Andhra Pradesh continued to function. In Rajasthan region also consumer goods were supplied to mica mining population through six co-operative Stores.

## PART II

\*Statement of Accounts for the year 1969-70

Receipts	Rs.	Expenditure	Rs.
Opening balance on 1st April, 69	1,56,25,027	Expenditure during the year	52,49,692
Receipts during the year	39,85,588	Closing balance	1,43,60,923
<b>TOTAL</b>	<b>1,96,10,615</b>		<b>1,96,10,615</b>

\*Figures indicated by Accountant General Central Revenues in the Appropriation Accounts.

## PART III

Actuals Receipts & Expenditure for the year 1970-71.

Receipts	31,47,209
Expenditure	43,71,500

[No. F. Z-16016/3/71-M-III.]

P. R. NAYAR, Under Secy.

श्रम, रोजगार और पुनर्वास मंत्रालय

(श्रम और रोजगार विभाग)

नई दिल्ली, 10 जुलाई, 1972

का० आ० 2596.—अभ्रक खान श्रम कल्याण विधि-अधिनियम; 1946 (1946 का 22) की धारा 3 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, 31 मार्च, 1970 को समाप्त होने वाले वर्ष के दौरान अभ्रक खान श्रम कल्याण निधि से वित्त पोषित क्रियाकलाप की निम्नलिखित रिपोर्ट उस वर्ष के लेखा के विवरण और उक्त निधि के वर्ष 1970-71 की प्राप्तियों और व्यय के प्राक्कलन के सहित एतद्द्वारा प्रकाशित करती है।

## भाग 1

1. साधारण :—अभ्रक खान श्रम कल्याण निधि का गठन अभ्रक खान श्रम कल्याण निधि अधिनियम, 1946 (1946 का 22) के अधीन अभ्रक खान उद्योग में नियोजित श्रमिकों के कल्याण की अभिवृद्धि करने के क्रियाकलाप का वित्त पोषण करने के लिए किया गया है। इस प्रयोजन के लिए प्रगणित कुछ बड़े क्रियाकलाप

स्वच्छता, चिकित्सीय सुविधाएं, आवासन, जलप्रदाय, शिक्षा, रहन-सहन के स्तर में सामान्य सुधार तथा आमोद-प्रमोद की सुविधाएं हैं।

2. अधिनियम में उन राज्यक्षेत्रों से, जिन पर अधिनियम का विस्तार है, निर्यात की गई सभी अन्नक पर 6 1/4 प्रतिशत मूल्यानुसार से अनधिक दर पर, उपकर के रूप में सीमाशुल्क के उद्ग्रहण के लिए उपबन्ध है। किन्तु अभी के लिए नियत दर 1/2 प्रतिशत मूल्यानुसार है। संग्रहण विभिन्न अन्नक उत्पादक क्षेत्रों में उनके औसत उत्पादन के अनुपात में, कल्याणार्थ व्यय के लिए आवंटित किए जाते हैं।

3. अधिनियम के प्रसाशन से सम्बन्ध विषयो के बारे में केन्द्रीय सरकार को सलाह देने के लिए केन्द्रीय सरकार ने (सरकार का अन्नक खानों के स्वामियों का और अन्नक खान उद्योग में नियोजित कर्मकारों का प्रतिनिधित्व करने वाली तीन सलाहकार समितियां गठित की हैं अर्थात् आंध्र प्रदेश, बिहार तथा राजस्थान राज्य में प्रत्येक के लिए एक समिति। प्रादेशिक निधियों के क्रिया-कलाप को समन्वित करने के लिए पहले एक समन्वय समिति थी जिसमें केवल सरकारी व्यक्ति थे। अन्नक खान कर्मकारों और अन्नक खान नियोजकों को प्रतिनिधित्व देने के लिए उस समिति के स्थान पर 5 अक्टूबर, 1967 को एक त्रिपक्षीय केन्द्रीय सलाहकार बोर्ड बनाया गया जिसके अध्यक्ष मंत्रालय के संयुक्त सचिव थे। उस बोर्ड की पहली बैठक हैदराबाद में 28 दिसम्बर, 1967 को हुई थी वह बोर्ड एक वर्ष की अवधि के लिए था और बोर्ड के जीवनकाल के समाप्त हो जाने पर, वह 26 नवम्बर, 1968 को पुनर्गठित किया गया और उसकी अवधि तीन वर्ष नियत की गई। बोर्ड की दूसरी बैठक में जो भीलवाड़ा (राजस्थान) में 14 दिसम्बर, 1968 को हुई थी, बोर्ड ने यह सिफारिश की कि प्रत्येक राज्य सलाहकार समिति का अध्यक्ष उस राज्य का अन्न मंत्री होना चाहिए। केन्द्रीय सरकार ने वह सिफारिश स्वीकार कर ली और राज्यों के अन्न मंत्री राज्य सलाहकार समितियों के अध्यक्ष बना दिए गए हैं।

4. बिहार आंध्र प्रदेश और राजस्थान राज्यों में निम्नलिखित कल्याणार्थ आरंभ किए गए हैं :—

(i) चिकित्सीय सुविधाएं

(क) अस्पताल.—निधि के साधनों से करमा (बिहार) में एक 100 शय्याओं वाला केन्द्रीय अस्पताल तिसरी (बिहार) में 30 शय्याओं वाला एक प्रादेशिक हस्तपाल कालीचेडू (आंध्र प्रदेश) में 14 शय्या वाला एक अस्पताल और गंगापुर (राजस्थान) में 30 शय्या वाला एक केन्द्रीय अस्पताल बनाए रखे गए। तालुपुर (आंध्र प्रदेश) के औषधालय को 10 शय्या वाले एक अस्पताल में बदल दिया गया। करमा (बिहार) में 50 शय्या वाला एक क्षयरोग का अस्पताल और कालीचेडू स्थित अस्पताल से संलग्न 16 शय्या वाला

एक क्षयरोग वाई तथा निमरी (बिहार) को 30 शय्या वाला एक क्षयरोग क्लीनिक काम करते रहे।

(ख) अन्य चिकित्सीय सुविधाएं.—निधि की पूंजी से स्थापित किए गए अन्य चिकित्सा संस्थानों में स्थैतिक औषधालय आयुर्वेदिक औषधालय चल चिकित्सा—यूनिटें मातृ और शिशु कल्याण केन्द्र आदि समाविष्ट हैं। इस वर्ष के दौरान इन चिकित्सा संस्थानों का प्रादेशिक वितरण निम्न प्रकार से है :—

चिकित्सा संस्थान	आन्ध्र प्रदेश	बिहार	राजस्थान
आयुर्वेदिक औषधालय	3	7	12
स्थैतिक औषधालय	2	5	5
चल चिकित्सा—यूनिटें	1	3	4
मातृ और शिशु कल्याण/छोटे सामुदायिक केन्द्र	4	7	7

सरकारी कल्याण निधि क्षयरोग और छाती रोग अस्पताल, नेल्लोर, में छह शय्याएं अन्नक खानों और उनके कुटुम्ब के अनन्य उपयोग के लिए आरक्षित की गई थी। लेटमारी कुष्ठ अस्पताल में बिहार के उन अन्नक खानों के जो कुष्ठ से पीड़ित हैं, उपचार के प्रबंध बनाए रखे गए। इस वर्ष के दौरान एक एक्स रे संयंत्र सरकारी अस्पताल, गुडर, में, निधि से उसकी लागत मध्ये 24000 रु० की वित्तीय सहायता से लगाया गया।

(ग) क्षयरोग के रोगियों को सहायता :—उन अन्नक खानों के, जिनका केन्द्रीय अस्पताल, करमा से संलग्न क्षयरोग वाई में उपचार हो रहा था, आश्रितों को 50.00 रु० प्रतिमास के हिसाब से निर्वाह भत्ता दिया जाता रहा।

क्षय रोग और सिकतामयता के रोगियों के गृह-उपचार की स्कीम भी जारी रखी गई। क्षयरोग अस्पताल, नेल्लोर के बहिरंग विभाग में आने वाले रोगियों को यात्रा-भत्ता दिया गया। क्षय रोग से ठीक हुए कर्मकारों के लिए बिहार में स्थापित पुनर्वास-एवं-उल्लास गृह काम करता रहा। क्षय रोग पीड़ित अन्नक खानों को निर्वाह भत्ते के रूप में 50 रु० प्रतिमास और छह मास के लिए विशेष भोजन के लिए 50 रु० प्रतिमास की वित्तीय सहायता दी जाती रही। अन्नक खानों में से क्षय रोग के रोगियों की गृह-उपचार स्कीम राजस्थान में जारी रखी गई।

(ii) शिक्षा संबंधी सुविधाएं :—बिहार में नौ बहुउद्देशीय संस्थानों में जिनमें से प्रत्येक में एक प्रौढ़ शिक्षा केन्द्र और एक नारी कल्याण अनुभाग है कर्मकारों को शिक्षा और आमोद-प्रमोद की सुविधाएं महिला कर्मकारों को और खानों के आश्रितों को सिलाई आदि जैसी दस्तकारी में प्रशिक्षण दिया गया। आन्ध्र

प्रवेश में दो नारी केन्द्रों में और राजस्थान में ऐसे ही सात केन्द्रों में लड़कियों और महिला कर्मचारों को दर्जगीरी, सिलाई आदि सिखाई गई। खनिकों के बच्चों को शिक्षा संबंधी सुविधाएं आन्ध्र प्रदेश में 6 प्रारम्भिक स्कूलों, 2 हाई स्कूलों और 2 प्रौढ़ साक्षरता केन्द्रों में, बिहार में 4 प्राथमिक स्कूलों, 4 मिडिल स्कूलों और 7 फीडर (पूरक) स्कूलों में और राजस्थान में 2 प्राथमिक स्कूलों, 1 मिडिल स्कूल, 24 प्रौढ़ शिक्षा केन्द्रों और 5 पूरक केन्द्रों में दी जाती रही। इनके अलावा, आंध्र प्रदेश में एक सांयकाली खनन स्कूल चलता रहा। उसमें खनिकों को खनन व्यवसायों में प्रशिक्षण सुविधाएं दी गई।

आन्ध्र प्रदेश के स्कूलों में, अन्नक खनिकों को मुक्त मध्याह्न भोजन, दूध, पुस्तकें, स्लेटें, और वस्त्र जैसी सुविधाएं दी गई। बिहार में बहुउद्देशीय संस्थानों सामुदायिक केन्द्रों और स्कूलों में जाने वाले खनिकों के बच्चों को दूध, टिफिन, पुस्तकें, स्लेटें वस्त्र आदि दिए गए। बिहार में बहुउद्देशीय संस्थानों में जाने वाले बच्चों को रोज नहलाया गया जिसके लिए तेल और साबुन की व्यवस्था संस्थान ने की। राजस्थान में अन्नक खनिकों के स्कूल जाने वाले बच्चों को मध्याह्न भोजन, पुस्तकें, स्लेटें और अन्य लेखन सामग्री दी गई।

स्कूलों और कालेजों में अध्ययन करने वाले अन्नक खनिकों के बच्चों के लिए बिहार में चार और आन्ध्र प्रदेश में दो छात्रावास चलाए जाते रहे। उच्चतर माध्यमिक स्कूलों में अध्ययन करने वाले अन्नक खनिकों के बच्चों के लिए गंगापुर के लिए (राजस्थान) में स्थापित होस्टल चलता रहा।

अन्नक खनिकों के बिहार, आन्ध्र प्रदेश और राजस्थान के स्कूलों और कालेजों में अध्ययन करने वाले बच्चों को छात्रवृत्तियां दी गई। ऐसी छात्रवृत्तियां साधारण और तकनीकी दोनों ही प्रकार की शिक्षा के लिए दी गई। अन्नक खनिकों के उन बच्चों को जो स्कूलों में पढ़ते हैं, बिहार में ट्यूशन फीस की प्रतिपूर्ति भी की गई।

आन्ध्र प्रदेश में निधि संगठन के अधीन, दो उच्चतर माध्यमिक स्कूलों और छह प्रारम्भिक स्कूलों में एक स्कूल-स्वास्थ्य-कार्यक्रम शुरू किया गया।

(iii) आमोद-प्रमोद की सुविधाएं—चार चल-सिनेमा यूनिटों ने (तीन बिहार में एक और एक राजस्थान में) विभिन्न खनन केन्द्रों में मुफ्त चलचित्र प्रदर्शन किए। अन्नक खनिकों और उनके कुटुम्बों के आमोद-प्रमोद के लिए रेडियो सेट दिए जाते रहे। बिहार में बहुउद्देशीय संस्थानों, सामुदायिक और पूरक केन्द्रों में आमोद-प्रमोद की सुविधाएं दी गई। बहिरंग और अन्तरंग आमोद-प्रमोद की सुविधाएं राजस्थान में केन्द्रों, उपकेन्द्रों और फीडर केन्द्रों में तथा आन्ध्र प्रदेश के 15 आमोद-प्रमोद क्लबों में दी गई। विभिन्न खनन क्षेत्रों में भजन और कीर्तन मंडलियां संगठित की गई। वार्षिक खेल कूद का भी आयोजन जौनल टूर्नामेंट के रूप में किया गया और विजेताओं को पुरस्कार वितरित किए गए।

(iv) पेयजल की सुविधाएं—निधि संगठन द्वारा 80 कुएं (74 बिहार में और 6 आंध्र प्रदेश में) बनवाए गए। इन में से 14 कुएं वे हैं जो 1969-70 वर्ष में गलाए गए थे। बारह और कुएं भी (3 बिहार में और 9 आंध्र प्रदेश में) उस सहायक स्कीम के अधीन गलाए गए जिसके अधीन उन खान स्वामियों को, जो कुएं गलाते हैं, 7500 रु० प्रति कुएं या संनिर्माण की लागत के 75 प्रतिशत के बराबर, इन में से जो भी कम हो उसके बराबर सहायकी मिलती है।

(v) आवास सुविधाएं :—उक्त तीनों प्रदेशों में आश्रमन की प्रगति निम्नलिखित है :—

(क) बिहार में 50 मकानों वाली एक विभागीय कालोनी जोरसिमर में बनाई गई। 48 मकानों वाली एक अन्य कालोनी डोमछांय में पूरी हो गई थी। 1,600 रु० की लागत के 500 कम लागत वाले मकानों के सन्निर्माण की भी मंजूरी दे दी गई थी।

(ख) आन्ध्र प्रदेश में, कम लागत के मकानों की स्कीम के अधीन सोलह मकान निर्माणाधीन के और बन कर तैयार होने वाले थे। 12 और मकानों के लिए बर्क आदेश जारी कर दिए गए थे। सात मकान "स्वयं अपना मकान बनाइए स्कीम" के अधीन बनाए गए थे। उसी स्कीम के अधीन 5 और मकानों के सन्निर्माण का काम चालू था। शाह माइन्स में 50 मकानों की विभागीय कालोनी के लिए पहले ही दी जा चुकी मंजूरी के अतिरिक्त तालपुर में 40 मकानों की एक और कालोनी के सन्निर्माण की मंजूरी दे दी गई थी।

(ग) राजस्थान में, "स्वयं अपना मकान बनाइए स्कीम" के अधीन मकानों के सन्निर्माण के लिए 48 अन्नक खान कर्मचारों को भागिक सहायकी संयुक्त कर दी गई थी।

(vi) दुर्घटनाओं की दशा में आर्थिक सहायता—उन अन्नक खनिकों की जो दुर्घटनाओं के परिणामस्वरूप मर जाते हैं, विधवाओं और बच्चों को निधि में से वित्तीय सहायता देने सम्बन्धी स्कीम को जारी रखा गया।

(vii) उपभोक्ता सहकारी स्टोर—बिहार में एक थोक (केन्द्रीय) उपभोक्ता सहकारी स्टोर, जिसकी सात शाखाएं हैं और पांच प्राथमिक स्टोर तथा आन्ध्र प्रदेश में चार प्राथमिक उपभोक्ता सहकारी स्टोर काम करते रहे। राजस्थान प्रदेश में भी अन्नक खनन सम्बन्धी लोगों को उपभोक्ता माल छह सहकारी स्टोरों से सप्लाई किया गया।



## भाग—II

1969-70 वर्ष का लेखा विवरण

प्राप्तियां	व्यय
रु०	रु०
1 अप्रैल 1969 का	
अति शेष	1,56,25,027 वर्ष के दौरान व्यय 52,49,692
वर्ष के दौरान	अन्त अतिशेष
प्राप्तियां	39,85,588 1,43,60,923
योग	1,96,10,615 1,96,10,615

\*विनियोग लेखा में केन्द्रीय राजस्व के महालेखापाल द्वारा उपदर्शित अंक।

## भाग III

1970-71 वर्ष की वास्तविक प्राप्तियां और व्यय

प्राप्तियां	रु०
अति शेष	31,47,209
व्यय	43,71,500

[सं० फा० जेड-16016/3/71, एम-III)

जी० आर० नैयर, अवर सचिव।

## (Department of Labour and Employment)

New Delhi, the 30th August, 1972

**S.O. 2597.**—In exercise of the powers conferred by section 7, read with section 9 of the Minimum Wages Act, 1948 (11 of 1948), and in supersession of the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 3580, dated the 26th September, 1968, the Central Government hereby appoints an Advisory Board consisting of the following members for the purpose of co-ordinating the work of committees and sub-committees appointed under section 5 of the said Act and for advising the Central Government generally in the matter of fixing and revising minimum rates of wages in respect of the scheduled employments carried on by or under the authority of the Central Government and appoints the Chief Labour Commissioner (Central) as Chairman thereof, namely:—

## I. Independent Members

1. Chief Labour Commissioner (Central), New Delhi—Chairman.

Director, Labour Bureau, Simla.

3. Dr. J. N. Sinha, Senior Fellow, Institute of Economic Growth, University Enclave, Delhi-7.

## II. Representatives of Employers

1. Shri K. V. Ramanamurthi, Deputy Secretary to the Government of India, Ministry of Defence, New Delhi.
2. Shri J. K. Mathur, Joint Director, Civil Engineering, Railway Board, Ministry of Railways New Delhi.

3. Shri G. S. Seshadri, Deputy Secretary to the Government of India, Department of Works, Housing & Urban Development, (Works Division), New Delhi.

4. Shri S. K. Comal, Deputy Secretary, Ministry of Shipping and Transport, (Transport Wing), New Delhi.

Shri K. S. K. Rao, Assistant Commissioner (Land Reclamation), Department of Agriculture, New Delhi.

## III. Representatives of Employees

1. Shri Keshav H. Kulkarni, General Secretary, National Federation of Indian Railwaymen, 166/1, Panchkuian Road, New Delhi.

2. Shri Bindeshwari Dubey, General Secretary, Bokaro Steel Workers' Union, Bokaro Steel City, Dhanbad.

3. Shri Gajan Tanti, General Secretary, Assam Chah Mazdoor Sangha, P.O. Dibrugarh, Assam.

4. Shri Raj Bahadur Gaur, General Secretary, Andhra Pradesh Trade Union Congress, Makhdoom Mohiuddin Marg, Himayatnagar, Hyderabad-29 (A. P.).

5. Com. S. R. Kulkarni, President, All India Port and Dock Workers Federation, P. D. 'Mello Road, Carnac Bunder, Bombay-1.

[No. S-32023(1)/71-WE(MW).]

HANS RAJ CHHABRA, Dy. Secy.

(श्रम और रोजगार विभाग)

नई दिल्ली, 30 अगस्त 1972

का० आ० 2597. —न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 9 के साथ पठित धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के श्रम, रोजगार और पुनर्वास मंत्रालय (श्रम और रोजगार विभाग) की अधिसूचना सं० का० आ० 3580, तारीख 26 मितम्बर, 1968 को अधिक्रांत करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित सदस्यों से गठित होने वाला एक सलाहकार बोर्ड उक्त अधिनियम की धारा 5 के अधीन नियुक्त समितियों और उप-समितियों के कार्य में समन्वय के प्रयोजनार्थ तथा केन्द्रीय सरकार द्वारा या उस के अधीन चलाये जाने वाले अनुसूचित नियोजनों के सम्बन्ध में न्यूनतम मजदूरी की दर निश्चित करने और पुनरीक्षण के मामले में सामान्यतः केन्द्रीय सरकार की सलाह देने के लिए नियुक्त करती है, तथा मुख्य श्रम आयुक्त (केन्द्रीय) को उसका अध्यक्ष नियुक्त करती है, अर्थात्—

## (i) स्वतंत्र सदस्य .

1. मुख्य श्रम आयुक्त (केन्द्रीय), नई दिल्ली अध्यक्ष
2. निदेशक, लेबर ड्यूरो, शिमला सदस्य
3. डा० जे० एम० मिन्हा, ज्येष्ठ फैलो, आर्थिक विकास मंत्रालय, यूनीवर्सिटी एन्क्लेव, दिल्ली-7.

## (ii) नियोजकों के प्रतिनिधि.

1. श्री के० वी० रमनमूर्थि, उप सचिव, भारत सरकार, रक्षा मंत्रालय, नई दिल्ली।

2. श्री जे० के० माथुर, संयुक्त निदेशक, सिविल इंजीनियरिंग, रेलवे बोर्ड, रेलवे बोर्ड, रेलवे मंत्रालय, नई दिल्ली।
3. श्री जी० एस० शेषाद्री, उप सचिव, भारत सरकार, निर्माण, आवास तथा नगर विकास विभाग (निर्माण अनुभाग), नई दिल्ली।
4. श्री एस० के० कोमल, उप सचिव, नौवहान तथा परिवहन मंत्रालय, (परिवहन शाखा), नई दिल्ली।
5. श्री के० एस० के० राव, सहायक आयुक्त (भूमि उद्धार), कृषि विभाग, नई दिल्ली।

(iii) कर्मचारियों के प्रतिनिधि

1. श्री केशव एच० कुलकर्णी, महामंत्री, नेशनल फेडरेशन आफ इंडियन रेलवेमैन, 166/1, पंचकुह्या रोड, नई दिल्ली।

2. श्री बिन्देश्वरी दूबे, महामंत्री, बोकारी स्टील वर्क्स यूनियन, बोकारी स्टील सीटी, धनबाद।
3. श्री गजन तांती, महामंत्री, आसाम चाह मजदूर संघ, पी० आ० डिबरूगढ़, आसाम।
4. श्री राज बदादूर गौड़, महामंत्री, आंध्र प्रदेश ट्रेड यूनियन कांग्रेस, मखदूम मोहिउद्दीन मार्ग, हिमायतनगर, हैदराबाद-29 (आंध्र प्रदेश)
5. कॉमरेड एस० आर० कुलकर्णी, अध्यक्ष, आल इंडिया पोर्ट एंड डाक वर्क्स फेडरेशन पी० डी० मैलो रोड, कार्नेक बन्दर, बम्बई-1

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हंस राज छाबड़ा, उप-सचिव।

